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APPENDIX

Volume I, pp. 1-390

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI IN NO. 78-857 FILED NOVEMBER 27, 1978

PETITION FOR CERTIORARI IN NO. 78-997 FILED DECEMBER 19, 1978

CERTIORARI GRANTED FEBRUARY 21, 1979

In the Supreme Court of the United States

OCTOBER TERM, 1978

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Yeshiva University

Case No. 2-CA-14697

2-RC-16662

10.30.74 Petition filed

11.12.74 Regional Director's Notice of Representation Hearing, dated

11.26.74 Hearing opened

5.6.75 Hearing closed

5.6.75 Hearing Officer's Order Transferring Representation Case to the National Labor Relations Board, dated

12.5.75 Board's Decision and Direction of Election, dated

12.29.75 Board's Order Amending Direction of Election, dated

5.17.76 Regional Director's telegraphic message requesting the Board amend the Direction of Election, dated

5.25.76 Board's Order Further Amending Decision and Direction of Election, dated

11.16-76 Notice of Election to be held on both dates

11.17.76

11.30.76 Regional Director's letter advising parties that pursuant to a stipulation entered into between the parties, a re-run election will be held by Mail Ballot and will be conducted for those employees who cast their ballots at Polling Place No. 2, dated

12.20.76 Notice of Election of Representative and Instructions, to Eligible Employees Voting by United States Mail, stating votes must be received by 12:00 noon on this date

12.20.76 Tally of Ballots issued

12.29.76 Regional Director's Certification of Representative, dated

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2.4.77 Charge filed

2.22.77 Complaint and Notice of Hearing, dated

3.7.77 Respondent's Answer, dated

3.14.77 Regional Director's Order Postponing Hearing, dated

3.16.77 General Counsel's Motion (and Petition) for Summary Judgment and Issuance of Decision and Order, dated

3.30.77 General Counsel's Further Petition for Summary Judgment and Decision and Order, dated

2.21.79 The Orders of the Supreme Court granting certiorari, dated

SUPREME COURT OF THE UNITED STATES

No. 78-857

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

ORDER ALLOWING CERTIORARI. Filed February 21, 1979

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted. The case is consolidated with No. 78-997 and a total of one hour is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION, PETITIONER

v.

YESHIVA UNIVERSITY

ORDER ALLOWING CERTIORARI. Filed February 21, 1979

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted. The case is consolidated with No. 78-857 and a total of one hour is allotted for oral argument.

BEFORE THE
NATIONAL LABOR RELATIONS BOARD
SECOND REGION

Case No. 2-RC-16518

In the Matter of

YESHIVA UNIVERSITY—BELFER GRADUATE SCHOOL

and

FACULTY ASSOCIATION OF BELFER GRADUATE SCHOOL OF SCIENCE

Case No. 2-RC-16517

YESHIVA UNIVERSITY—FERKAUF GRADUATE SCHOOL and FACULTY ASSOCIATION OF FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES

26 Federal Plaza
New York, New York
Monday, June 10, 1974

The above-entitled matter came on for hearing, pursuant to notice, at 10:45 o'clock, a.m.

BEFORE:

HAYWOOD E. BANKS, Hearing Officer.

APPEARANCES:

SAUL G. KRAMER, ESQ.
PROSKAUER, ROSE, GOETZ & MENDELSOHN, ESQS., 300 Park Avenue, New York, New York, appearing on behalf of the Employer.

RONALD SCHECTMAN, ESQ.
MURRAY A. GORDON, P.C., 666 Third Avenue, New York, New York, appearing on behalf of Petitioners.

* * * *

[30] JOSHUA A. FISHMAN, called as a witness, having been first duly sworn by the Hearing Officer, testified as follows:

THE HEARING OFFICER: Be seated and give the reporter your full name and address, please.

THE WITNESS: Joshua A. Fishman, 3340 Bainbridge Avenue, Bronx, New York.

DIRECT EXAMINATION

BY MR. KRAMER:

Q Dr. Fishman, by whom are you employed?

A I'm employed by Yeshiva University.

Q In what capacity?

A I'm Vice-President for Academic Affairs.

Q How long have you held that position, Dr. Fishman?

A Since September 1973.

Q Would you tell us what are your responsibilities as Vice-President for Academic Affairs?

A I have overall integrating responsibility with respect to the programs of instruction, the degree programs, the quality of those programs, quality of the faculty, the merit of the faculty with respect to promotion, tenure.

Q Would it be fair to state, putting the president of the institution aside, Dr. Fishman, that you are the chief academic officer of the university?

[31] A Yes.

Q How long have you been associated with the university?

A I have been at Yeshiva University since 1960.

Q In what capacity, beginning in 1960 and coming forward?

A From 1960 to 1966, my faculty appointment was professor of psychology, and then psychology and sociology, but most of my time was spent as dean of the school, which ultimately became the Ferkauf Graduate School.

I also was engaged in research probably half of the time during those six years.

From 1966 through to 1973, I was university research professor of social sciences engaged in both teaching and in research, and since September 1973, although I retain my academic rank, I've also assumed this administration responsibility.

* * * *

[32] Q Dr. Fishman, when was Yeshiva University chartered by the State of New York?

A 1897.

Q Dr. Fishman, I show you a document of several pages, the top page of which is headed "The University of the State of New York, the State Education Department." It appears to be a letter under date of May 29, 1974.

Are you familiar with this document, which is marked as Employee's Exhibit No. 1?

[33] A Yes. This document is the charter of the University, as amended and updated on various occasions.

(Employee's Exhibit 1 was marked for identification.)

MR. KRAMER: I offer Employee's Exhibit No. 1 in evidence.

THE HEARING OFFICER: Any objection?

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: All right. Employee's Exhibit 1 is received in evidence.

(Employee's Exhibit 1 for identification was received in evidence.)

Q Dr. Fishman, does the university have a board of trustees?

A Yes, sir.

Q Is there any requirement that the members of the Board of Trustees maintain a particular religious affiliation?

A No, there is no such requirement.

Q Now, Dr. Fishman, you have been in various educational pursuits for over 20 years, is that right?

A Yes.

Q Would you tell us, based on your experience, what the term university means?

A A university is a large post secondary educational institution normally offering a great variety of degree [34] programs, normally providing opportunity for faculty to be in touch with each other, to be in touch with students throughout the university, providing opportunity for students to be in touch with each other and faculty throughout the university, interested not only in instruction, but also in research and interested in providing community service in the areas of the expertise of its faculty.

Q In your experience, Dr. Fishman, do universities consist of several schools or colleges?

A That's what I meant when I said a complex program. The program is not so simple or so limited as to be easily placed within a single category or a single administrative jurisdiction, just in terms of the ease of the operation.

Q Is it also correct, Dr. Fishman, that most universities grant both graduate and undergraduate degrees?

A That's certainly the case.

Q You've given us a rather complex definition, Dr. Fishman. Does Yeshiva University meet this definition?

A I think it certainly does. I think it takes all of the parts of the definition very seriously, I would say particularly the more philisophical parts, which imply educational goals, educational philosophy, which are among the top concerns of the faculty, the administra- [35] tion as well.

Therefore, there is no academic field that really corresponds neatly to the interests, the intellectual interests of students, to the intellectual interests of faculty and, therefore, it's a serious aspiration, an interest and concern of all of us, to make sure that students and faculty can follow their intellectual interests and their professional interests throughout the university wherever they find other faculty that have that interest, other students that have that interest, so that it doesn't turn out that any administrative convenience that may exist for the moment curtails what I have referred to as the opportunity to meet, to teach, to question, to research and

to discuss a topic regardless of where it takes you, because no intellectual topics are really sliced the way university catalogues are sliced.

The overall implication of university is something universal, because everything has to be included, everything has to be possible in terms of a question that can be asked and the person of whom you can ask that.

Q Dr. Fishman, is the university accredited by a particular body?

A The university is accredited by the Middle States Association.

Q When was the last academic visit by that association?

[36] A The last full visit was at the end of '69 or the beginning of the '70's.

Q Is it possible for an accreditation to have a theme?

A I would say once an educational institution is well established and there is no longer any doubt on the part of the accrediting body that its operations are basically sound, it then no longer just routinely looks into merely the quality of all of the programs, since they are assumed to be acceptable, if not higher than acceptable; it then prompts or permits the institution to pick a theme which is of concern to it so that both the faculty self-evaluation before the visit as well as the visit itself can focus in on this theme which is of overriding concern at the time.

Q And was the visit—was there a theme for the visit in the late '60's?

A The theme for the last visit—there was a theme, and the theme for the last visit was the integration of the university, the overall coordination and integration of the university.

MR. SCHECTMAN: I object. I don't think any basis has been laid for who establishes theme or whether the theme was any formal policy of the Board of Accreditation or the university deemed this theme with respect to the visit of the officials from the accreditation agency.

[37] MR. KRAMER: As you know, Mr. Hearing Officer, this is a non-adversary proceeding where the rules of evidence don't apply.

I would like to continue to pursue this line. I am sure many of my colleagues' comments will be mooted by my examination.

He can pursue this further on cross examination.

MR. SCHECTMAN: We are very interested in what this theme was. If we could have some information as to how it was determined or how it was defined or designated—

THE HEARING OFFICER: I'll overrule the objection.

At the time that the questioning on direct has been completed, if it is not clear, then, of course, you will have ample time on cross examination to develop it.

Continue.

BY MR. KRAMER:

Q Dr. Fishman, you told us that the theme for the last visit of the Middle States Advisory Body was integration and cooperation, is that correct?

A Coordination.

Q Coordination. Who chose that theme?

A To my knowledge, that theme was among several themes that faculty and administration reviewed, and I think that theme was chosen collectively by faculty and administrative representatives.

[38] Certainly the self-evaluation around that theme was conducted by faculty committees and, therefore, although I wasn't present at the time, I would say by university tradition that's the way it would have been done.

Q Dr. Fishman, I've used the term full-time faculty in my opening statement. Is that term used at Yeshiva University?

A Full-time faculty? Yes.

Q Would you tell us what that term means?

A A full-time faculty member is a faculty member whose letter of appointment from the President states that he is a full-time faculty member.

He, therefore, either is on a tenure track or has been on a tenure track in accordance with our tenure policy which pertains to full-time faculty, and his—the university has every right to expect that all of his time is

given to the university and, therefore, there are regulations limiting the amount of time that he can give outside the university.

That time given outside the university is either related to a portion of his faculty teaching load, it can be no more—if he is teaching outside of the university, it can be no more than half of the normal faculty teaching load, or if he is doing non-teaching work outside [39] the university, it can be no more than the equivalent of a day of such work per week, and the permission to do any work outside of the university must be requested from one's dean, who must then request it from the President, and the permission can be given only by the President.

Q Now, is there also a quantitative test in determining whether someone is a full-time faculty member?

A The quantitative test is in the definition of the full-time load that I mentioned before. The full-time load at the university is defined as four courses, around 12 contact hours, or the equivalent thereof in other duties, committee work, dissertation, supervision, and so forth.

Q Is that four courses per semester?

A No, no. Per year.

Q Is that a graduate requirement?

A The graduate requirement and the undergraduate requirement are somewhat different, but they are essentially that, either four courses or 12 contact hours.

Q Who established that requirement, Dr. Fishman?

A That requirement was establishment by the Executive Council approximately in the spring of 1970.

Q Approximately how many full-time faculty members were employed at Yeshiva University at the beginning of the fall semester '73?

[40] A So far—

Q We are excluding the medical school here, Dr. Fishman.

A Full-time faculty members, approximately 225.

Q And approximately how many students were enrolled at the university, excluding the medical school, both full and part-time?

A Full and part-time students, approximately 2500.

Q Now, approximately how many of these students were full-time?

A There were 1500 full-time students.

Q And of these full-time, how many were full-time graduate students?

A Full-time graduate students, 336.

Q And full-time graduate students?

A Full-time undergraduate students, about 1200.

Q Of the part-time students, how many were part-time graduate students?

A Part-time graduate students were about 680.

Q And part-time undergraduate students?

A Part-time undergraduate students were about 340.

Q Dr. Fishman, would you tell us what schools make up the university?

A There are the following: Yeshiva College, Stern for Women, the Erna Michael College, the James Striar [41/55] School, the Teachers Institute for Women, the Belfer School, the Ferkauf School, the Wurzwelier School, the Bernard Revel School and its summer program called the Harry Fischel School.

I believe I've got them all.

Q Is there also a medical school, Dr. Fishman?

A Yes, there is also the Albert Einstein College of Medicine and its Sue Golding Division.

Q And finally, Dr. Fishman, is there a putative law school?

A There is a law school currently planned as a result of a charter amendment that was recently granted by the Regents, yes.

Q What will that law school be called?

A Benjamin Cardoza Law School.

* * * *

[56] AFTERNOON SESSION

JOSHUA A. FISHMAN, resumed the stand and testified further as follows:

THE HEARING OFFICER: The hearing will be in order.

CONTINUED DIRECT EXAMINATION

BY MR. KRAMER:

Q I think before the luncheon break, Dr. Fishman, you told us that a full-time load was 12 contact hours or four courses, and I asked you whether those were four courses per semester or per year, and you told us that they were four courses per year, academic year; is that correct?

A Per semester.

Q You would like to correct your testimony?

A Yes, sir.

Q The 12 contact hours are per semester, also?

A Yes.

Q Dr. Fishman, prior to the lunch break, I asked you how the theme for the Middle States Evaluation was established. Have you had an opportunity to think about that some more?

A The theme was established as soon as—by discussion between the Middle States Association and the University, and it was broken into several sub-themes, by discussion between the Middle States representative and University personnel into integration in the area of finances programs, [57] student relations and community relations.

That is, Middle States suggested these topics, and the University agreed to them and then asked the faculty of each school to set up a self-evaluation unit in accord with these topics.

Q Dr. Fishman, does the Middle States group accredit particular schools, or does it accredit the University as a university?

A Middle States Association will only accredit an entire university. It cannot accredit any part of it and not accredit some other part.

If any part of it is not accreditable because of its lapses or lacks, then the whole university is not accreditable.

* * * *

[58] Q Dr. Fishman, are all the schools you've referred to on a single campus?

A No, they are on different campuses.

MR. KRAMER: Would you mark this as Employer's Exhibit 2 for identification?

(Employer's Exhibit 2 was marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit No. 2 for identification, a chart, a graphic, call it what you will, entitled, "This is Yeshiva University".

Was this graphic prepared by someone under your general supervision and control?

A Yes.

Q Dr. Fishman, let's turn to the right corner of this graphic as you face it, upper right-hand corner.

Will you tell us what the photograph in the upper right-hand corner shows?

A It's a photograph of the main center, the various [59] buildings and facilities at that center.

Q Where is that center located?

A It's roughly 185th Street and Amsterdam Avenue in Manhattan, and several blocks above and below along Amsterdam Avenue.

Q Is that what we call Washington Heights section of Manhattan?

A Yes.

* * * *

[66] Q Now, Dr. Fishman, let's turn to the bottom right-hand corner of this graphic and to the single rather old style building that is there with the trees in front of it.

What is that building called?

A That's called the graduate center.

Q Where is that building located?

A Between 12th and 13th on Fifth Avenue, 55 Fifth Avenue, in Manhattan.

Q Now, Dr. Fishman, assuming you are not driving an automobile, of course, how do you get from the main center to the graduate center by rapid transit?

A Either the trains I mentioned before, either the IRT Broadway line or the Independent A train will take you from near the main center to near the graduate center.

Q I take it both of these centers, so to speak, are on the island of Manhattan?

A Yes.

Q About how long does it take to go by subway from the main center to the graduate center?

[67] A Roughly half an hour.

Q You've taken this trip, I take it?

A Yes.

Q Dr., is this building owned by the University?

A Yes.

Q I'm pointing now to the graduate center building.

A Yes.

* * * *

Q What purposes, other than the commercial rentals you've just described, is this building used for?

A The building houses the faculty that is primarily based at the Wurzweiler School of Social Work and the Ferkauf Graduate School, and then it houses certain central University departments.

Q Such as?

[68] A The Department of Development. The University Attorney's office is also another. There is the graduate center library there, which serves both of the schools that are in that building, primarily, although University students from other campuses use that library as well.

* * * *

[69] Q Let's turn to the lower left-hand corner and the lower middle of this exhibit.

Referring now to both of those pictures, would you tell us what those three buildings are, where they are?

A Those three buildings are referred to as the midtown center. They are roughly 35th and Lexington. The lower middle building is a womens dormitory. The two buildings in the lower left are general purpose classroom buildings that provide most of the classrooms used by students registered through Stern College or through

the Teachers Institute for Women. It has a cafeteria. It has a library, faculty offices, administrative offices.

* * * *

[71] Q Now, let's turn to the upper left-hand corner of this graphic, Dr. Fishman. Would you tell us—it looks like an aerial photo. What that aerial photo is designed to show?

A That's the whole area that involves Einstein Medical College, its hospitals, its faculty and student buildings, its instructional and research facilities.

Q Which borough of the City of New York is that located in?

A Bronx.

Q In which borough of the City of New York are the remainder of these buildings located?

A They are all in Manhattan.

Q In other words, the main center, the graduate center and the mid-town center are all on the island of Manhattan, is that correct?

A Yes.

* * * *

[72/80] Q Now, let's turn to Yeshive College. Would you tell us what its function is?

A Yeshive College is an undergraduate college for men offering the liberal arts and science training and culminating in the Bachelor of Arts degree, by and large.

[81] Q Does it also provide a Bachelor of Science Degree?

A Yes.

Q Approximately how many students are enrolled in Yeshiva college as of the fall term, 1973? These are all September figures, are they not, Dr. Fishman?

A Yes, and the total enrollment at Yeshiva College was approximately 780.

Q Approximately how many full time faculty members were there at Yeshiva College in September of 1973?

A The full time faculty of Yeshiva College was about 45.

* * * *

[82] Q Let's turn to Stern College. Would you tell us what the function of Stern College for Women is?

A Stern College is an undergraduate liberal arts and sciences college for women, and then offers majors in a wide variety of fields and provides an opportunity for obtaining Bachelor of Arts and Bachelor of Science Degrees.

* * * *

Q Approximately how many students were there at Stern College for Women in the fall of 1973?

A The Stern College enrollment was approximately 490.

Q And approximately how many full time members were there [83] at that school at that time?

A Approximately 40.

Q Now, what is the function of Erna Michael College?

A The primary function of Erna Michael College is to offer courses in various Hebraic studies for men who have a rather good prior preparation for such studies.

These men are in simultaneous attendance, by and large, at Yeshiva College.

In addition, Erna Michael College provides an opportunity for a Bachelor of Arts and Bachelor of Science and special terachers certificates and diplomas for men who have a particular interest in becoming teachers or specialists in Judaic fields.

Q These would be students who enroll directly in that college, is that correct?

A Yes.

Q About how many students are served by the Erna Michael College?

A Erna Michael College has an enrollment of about 230 students.

Q Approximately how many full time faculty members are there at Erna Michael College?

A Erna Michael College full time faculty membership is about twenty.

[84] Q By the way, Dr. Fishman, when you talk about faculty members, are you including professors and associate professors, assistant professors and instructors?

A Yes.

Q And, I take it that that's what you have meant throughout your line of testimony, is that correct?

A Yes.

Q Now, let's turn to the James Strier School. What is its roll at your university?

A The James Strier School offers courses in various Judaic fields for men, who by and large have a lesser degree of preparation in that entire area than do those who attend Judaic studies at the Erna Michael College.

Q Approximately how many students are served by that school?

A That school had an enrollment of about 215, and once more these were, by and large, students that were simultaneously enrolled in Yeshiva College.

Q And approximately how many full time faculty members are involved in that school?

A Full time faculty at the James Strier School is about ten.

Q Let's look at the Teachers Institute for Women. What is its function?

[85] A Teachers Institute for Women provides an opportunity for women who are interested in becoming teachers in Jewish schools to obtain training and to obtain a creditation recognized by the licensing authorities in Jewish education.

Q In addition to this program which you've just referred to, does the school also grant a B.S. Degree?

A It also grants a B.S. Degree for a number of students in full time attendance there.

Q Approximately how many students are served by Teachers Institute for Women?

A Teachers Institute has about 320 students.

Q And approximately how many full time faculty members are involved there?

A The full time faculty of the Teachers Institute is above five.

Q I assume there is a larger part time faculty than that, is that correct?

A Yes, and similarly the students are.

Q Now, let's turn if you would, Dr. Fishman, to the Belfer Graduate School of Science. It is called that, is it not?

A Yes.

Q Would you tell us what its roll is?

A Belfer school has several functions. It is the base for [86] the university's graduate programs in physics, mathematics and chemistry. It conducts the university's undergraduate programs in physics and in mathematics and is planning to do the same for chemistry with the beginning of the next year.

Q Does it also provide what we call B.A.-M.S. programs?

A It is involved in joint B.A.-M.S. programs with the university's undergraduate colleges, the Yeshiva College and Stern College, in these same three fields, in physics, chemistry and mathematics.

Q Doctor, would you tell the hearing officer what a B.S.-M.S. program is, or for that matter, what a B.A.-M.A. program is in another discipline curriculum?

A Bachelors Masters Program is a device whereby an undergraduate senior can in his senior year take courses, the credits for which will simultaneously count toward his undergraduate degree, his Bachelors Degree, and toward a Masters Degree.

That is, he receives credits in both directions simultaneously.

Q Are such programs currently in effect in chemistry, physics and mathematics?

A Yes.

Q Do you know how those programs came into being?

[87] A Yes.

Q Tell us about that, would you please?

A In every case, since the faculty offering advance science work is doing its work through the Belfer School, the faculty in the graduate departments took the initiative in requesting and in planning and in implementing these programs.

Q Planning them with whom?

A The faculties in the other schools where there is course work corresponding to the programs in chemistry, physics and mathematics.

Q Are these in existence today joint committees between the faculties of the undergraduate and the Belfer School in these program areas, math, chemistry and physics?

A Yes, joint committees to operate these programs, plan them, to operate them, to improve them.

* * * *

[90] Q You've told us before that the university has a public relations office, is that correct?

A Yes.

Q Has the public relation's office put out a brochure or handout on these joint B.A.-M.S. programs?

A Yes, sir.

Q That has been put out to the public, I take it?

A Yes.

Q I show you Employer's Exhibit 4 marked for identification. Is that the publicity handout that has been developed by the P.R. office?

A Yes.

Q And that, in fact, has gone out, has it not?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 4 in evidence.

THE HEARING OFFICER: Any objection?

MR. SHECHTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibit 4 is received in evidence.

* * * *

[114] Q I show you Employer's Exhibit 10 marked for identification, a document dated March 6, 1974, which appears to be a letter to Dr. Dorohty G. Harrison, Director, State Education Department, Albany, New York, from you, J. A. Fishman.

Did you, in fact, send that letter?

A Yes.

Q Did you, in fact, accompany it with the documentation [115] that is appended to that letter?

A Yes.

Q That would include a memo under date of April 22, 1974, from Professor Martin Pomerantz, Chairman, Department of Chemistry, to Dean Arthur Komar, Subject, Projections for the Chemistry Department at Yeshiva University?

A Yes.

Q I notice that this memorandum of April 22, 1974, shows a copy to Vice President Sochol. Why does Vice President Sochol receive a copy of a memorandum like this?

A All of our academic planning at the university has financial implications and financial needs, and therefore, just as I supervised and coordinate the academic planning throughout the university, Dr. Sochol does so with respect to the fiscal wherewithal for such planning. He is the head of what they call the Office of Financial Services, of the university.

* * * *

[154] Q Approximately how many students full and part time, are registered at the Belfer school?

A The Belfer registration was about 120.

Q Do you have a breakdown between a full time and part time, Dr. Fishman?

A Yes. I have 42 full time, 77 part time.

* * * *

Q Approximately how many full time faculty members are [155] there at the Belfer school?

A The full time faculty attached to the Belfer school was about 35 this year.

Q Now, is it customary, Dr. Fishman, for the Dean of each of the schools in the university to report to the academic vice president and president of the institution at the close of each academic year?

A Yes. It's customary for each school to submit an annual report to the Dean.

Q And was such an annual report submitted for the Belfer school at the close of the 1972-73 academic year?

A Yes.

Q Submitted by whom, Dr. Fishman?
A By Dean Komar.
Q And did that report have appended to it reports by the department chairmen of the various departments in the Belfer school?
A Yes.

* * * *

[159] Q Do faculty members of Stern College sit on dissertation committees at Ferkauf?
A Yes.
Q Do you know some who have actually done so in recent years?
A I know that Dr. Sardy herself may have been sitting on dissertations at Ferkauf. There are others.
Q Has Dean Mirsky done so?
A It didn't occur to me. But Dean Mirsky has served on dissertation committees.
Q And Drs. Davidowicz and Vogel from Stern College, have they sat on committees at Ferkauf?
A Dr. Vogel particularly over many years was also teaching and sitting on dissertation committees at Ferkauf. And Dr. Davidowicz as well in more recent years, yes.
Q Now, a dissertation committee would typically have how many faculty members on it, Dr. Fishman, or isn't there anything typical about it?
A There is no hard and fast rule about this. It is typically three members, a chairman and two others.

* * * *

[163] Q Dr. Fishman, how are these joint BA-MA programs developed?
A They were developed as a result of joint faculty committees, planned them, submitted them for approval.
Q When you say joint faculty committees, would you tell the Hearing Officer what you mean?
A Committees of the schools involved. If it involves Ferkauf and Stern, that would be a committee of faculty members of those two schools.
Q And having established those programs, have committees been continued to monitor their progress?

A Yes, committees responsible for the progress of those programs, again, joint committees of the school involved.

* * * *

Q Dr. Fishman, during 1974 has consideration been given to physically moving the primary situs of the Ferkauf [164] psychology department from the graduate center to the main center?
A Yes. There was consideration given to that in the context of consideration that is being given to moving the entire graduate center to the uptown center, to the main center.
Q During 1974, Dr. Fishman, was a committee established for the university-wide articulation of psychology programs?
A Yes, there was.
Q And in the idiom of your university, what is the meaning of the term articulation? What's its common meaning?
A The meaning of articulation is to pull it together and unify it, to coordinate it, so it doesn't operate as separate fragmentary units.
Q On or about February 5, 1974, did you receive a letter from Professor Norman B. Gordon, Chairman of the Department of Psychology of the Ferkauf School?
A Yes.
MR. SCHECTMAN: What is that date?
MR. KRAMER: On or about February 5, 1974.
Q (By Mr. Kramer) Was that letter written for the department of psychology?
A On behalf of, yes, the department of psychology.
Q What was the subject of that letter, Dr. Fishman?
[165] A Dr. Gordon wanted to explain to me in detail why it was that he and his colleagues were so eager to have the psychology department be relocated at the uptown or main campus of the university, so that they could thereby have stronger roots in the undergraduate college, in terms of teaching, and so that the undergraduate instruction could be further improved.
Q Is such a move under consideration?
A Such a move is under consideration.

MR. KRAMER: Would you mark this, please?

(A document was marked Employer's Exhibit No. 15, for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit 15, a letter of three pages under date of February 5, 1974, to you from Norman B. Gordon, Chairman for the department of psychology.

Is this the letter to which you refer?

A Yes, sir.

Q And in this letter, Dr. Professor Gordon suggests that the move from the graduate center to the main center would integrate his department, and I quote now, "in a number of positive ways with undergraduate programs and this result in even greater gains than just a money-saving move to utilize a building."

Did he suggest that?

[166] A Yes.

Q Did he suggest, "that part of such a move might lead to establishment of an all university integration of psychology programs at the undergraduate, subdoctoral and graduate level"?

A Yes.

MR. KRAMER: I'll offer Employer's Exhibit 15.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 15 is received in evidence.

(The document previously marked Employer's Exhibit 15, for identification, was received in evidence)

Q (By Mr. Kramer) In addition, Dr. Fishman, to the February 5, 1974 letter to you, did Professor Gordon, once again on behalf of his department, also write to Dean Joseph B. Gittler on this subject?

A Yes.

Q Did you receive a copy of that letter?

A Yes.

Q Was that on or about—

A A memorandum, was it?

Q I stand corrected.

Did you get a copy of that memorandum?

A Yes.

Q And was it under date of February 7, 1974?

[167] A I believe so.

Q And in this memorandum, Dr. Fishman, among other things, did Professor Gordon suggest that the BA-MA programs recently initiated would be strengthened by the proximity of the graduate facilities and undergraduate faculties involved?

A Yes, sir.

(The document above-referred to was marked Employer's Exhibit 16, for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit 16, marked for identification.

Is this the memorandum to which you have just referred?

A Yes.

Q In this memorandum, did Professor Gordon further note, as an advantage, the fact that, and I quote, "Graduate professors would be more available for undergraduate teaching"?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 16 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Exhibit 16 is received in evidence.

(Document previously marked Employer's Exhibit 16, for identification, was received in evidence)

[168] Q (By Mr. Kramer) Dr. Fishman, I note in the upper right-hand corner of the first page of this exhibit there appears to be a notation "X-3" and under that three names: Socol, Bacon, Mirsky.

I think all those people have been identified. But to make the record clear, would you once again tell us who those people are?

A That's my notation to my secretary to make three Xeroxes and send them respectively to the vice president

for financial affairs Socol, and to Dean Bacon of Yeshiva College and to Dean Mirsky of Stern College, since they would be concerned or interested or involved in this type of discussion.

Q Now, Dr. Fishman, you told us that a university-wide articulation of psychology programs committee has been established at the university?

A Yes.

Q Did this occur at your direction?

A Yes, sir.

Q And did it occur on or about April 16, 1974?

A Yes.

Q And has that committee met?

A It has. I ought to mention that it occurred at my direction but following through on Dr. Gordon's suggestion that such articulation was needed.

Q In other words, this is an integrated process, is [169] it not?

A Yes.

Q And such a meeting was held?

A Yes. Several meetings have been held since.

Q The first meeting was on May 6, 1974, is that correct?

A Yes, sir.

Q And there have been several meetings since?

A Yes.

MR. KRAMER: Mark this, please.

(Document was marked Employer's Exhibit No. 17 for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you a two-page document marked Employer's Exhibit 17, for identification, the first page appearing to be a memo on Yeshiva University paper, under its logo, from you to Deans Bacon, Gittler, Mirsky, with a copy to Professor Jaffe. Who is Professor Jaffe?

A He is the acting dean at the Albert Einstein College of Medicine.

Q The date of April 16, 1974, subject "University wide articulation of psychology programs."

Did you in fact send that memorandum?

A Yes.

Q Now, the second page of this exhibit once again on a memorandum form, under the logo Yeshiva University, is [170] a memorandum to President S. Belkin, apparently from you.

A Yes.

Q Under date May 6, 1974, subject: "Committee on university wide articulation of psychology."

Did you in fact write that memorandum?

A Yes.

Q Now, the second page contains certain abbrevations, one being AECOM.

What does that stand for?

A That's Albert Einstein College of Medicine.

Q And FGS?

A Ferkauf Graduate School.

Q And SCW?

A Stern College for Women.

Q And YC?

A That's Yeshiva College.

MR. KRAMER: I'll offer Employer's Exhibit 17 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 17 is received in evidence.

(Document previously marked Employer's Exhibit 17, for identification, was received in evidence)

Q (By Mr. Kramer) Now, you've told us, Dr. Fishman, [171] that Professor Gordon's letter of February 5, 1974, and his memo of February 7, 1974, were prompted by an overall discussion of the movement of the graduate center facilities to the main campus, is that correct?

A Yes.

Q And is such a move under consideration?

A Yes.

Q Did there come a time in November, 1973, when you addressed the executive council of the university with respect to this consolidation?

A Yes, sir.

Q And in making that address did you read from a text?

A Yes.

(A document was marked Employer's Exhibit 18 for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you a document marked Employer's Exhibit 18 for identification, again on memo form under the logo Yeshiva University, to Deans and Directors, from Joshua A. Fishman, date, November 6, 1973, subject: "Consolidation of graduate and undergraduate campuses."

This document starts out:

"In order to safeguard and strengthen the viability and growth of Yeshiva University in these most difficult times, President Belkin has asked me to communicate to you [172] his decision on principle to consolidate at the current main campus the academic work currently being conducted by Yeshiva College, the Bernard Revel graduate school, the Belfer Graduate School of Sciences, the Ferkauf Graduate School and the Wurzweiler School of Social Work.

"This step pertaining to a move that has been suggested and considered informally in the past is being turned to now for extremely compelling reasons and obviously requires our wholehearted consideration and full support of its successful implementation."

Is this the statement that you read to the executive council?

A Yes.

Q Not only the paragraph I read but the main paragraphs as well, is that correct?

A Yes, sir.

Q There is a notation in the right-hand corner of this exhibit which is apparently in your handwriting?

A Yes.

Q Would you read it into the record for us?

A "Read at executive council November 6, 1974."

Q Was that notation made at the time you read it?

A Yes.

Q By you?

A Yes.

[173] MR. KRAMER: I offer Employer's Exhibit 18 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 18 is received in evidence.

(The document previously marked Employer's Exhibit 18, for identification, was received in evidence)

Q (By Mr. Kramer) Now, I note in the second paragraph of this letter it states that, "A number of planning committees will need to be appointed, some of them within schools and some of them between schools, to deal with matters such as the foregoing which can be grounded under four broad rubericks:

A, Planning an academic facilities, B, planning student and faculty services, C, planning general academic work and activities, D, planning Jewish academic work and activities."

You then continued, Dr. Fishman—

MR. SCHECTMAN: Excuse me, Mr. Hearing Officer. I object.

MR. KRAMER: I will not read any further from the exhibit at this point.

Q (By Mr. Kramer) Were these committees in fact formed?

A Some committees were formed. Some were not.

[174] Q In which areas were committees formed?

A A committee was formed for space planning, planning of space, the physical facilities planning in connection with the consolidation or in connection with a consolidation, and a committee considered also the academic planning that was necessary in connection with consolidation of campuses.

MR. SCHECTMAN: I'm sorry. Could I have that response read back. I missed it.

HEARING OFFICER: Okay.

(The record was read by the reporter)

Q Now, Dr. Fishman, you've told us about several BA-MA programs between Ferkauf College and various undergraduate schools in the university.

To your knowledge, has there also been planning for a BA-MA program in general education between the Ferkauf School and Yeshiva College?

A There was planning for that, yes. There is no such program in effect, but there was planning of such a program.

Q And why is no such program in effect at this time, if you know?

A Teaching doesn't seem to be a favorite professional goal of the boys in Yeshiva College. There just doesn't seem to be sufficient student interest in that field.

But on the chance that there would be, such a program was planned.

Q And who did the planning Dr. Fishman?

[175] A The planning was done primarily by the Ferkauf faculty with the few people at the college that have in the past, when there was interest in teacher education at the college, conducted courses in that area.

Q And when did this planning take place, as best you recall?

A That planning was done at the end of '72-73 academic year, the beginning of the '73-74 academic year.

Q And by a committee?

A Yes.

Q And was that an interscholastic faculty committee?

A Interschool committee.

(A document was marked Employer's Exhibit 19 for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit marked 19 for identification, a three-page document, the first page of which under the logo The Yeshiva University, has the title "Members of the

committee for the BA-MA in education," and the next two pages which are headed, at least on the second page by the following: Minutes of Meeting of subcommittee on university bachelor-masters programs."

Is this the joint BA-MA committee in education to which you have just referred?

A Yes. That's the committee that planned that program [176] between Ferkauf and Yeshiva College.

Q And these are minutes of that committee?

A Yes.

Q Taken from your file?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 19 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 19 is received in evidence.

(The document previously marked Employer's Exhibit 19, for identification, was received in evidence)

Q (By Mr. Kramer) Now, Dr. Fishman, is there currently under way interschool planning for the continuation or revision of the masters program in communications at the Ferkauf Graduate School?

A Yes. There is a joint planning committee for a new masters level program in communications.

Q This committee consists of a faculty from the Ferkauf Graduate School, is that right?

A Yes.

Q From the Stern College for women?

A Yes.

Q And from Yeshiva College, is that right?

A Yes.

[177] Q On or about February 22, 1974, did you receive a copy of a memo from Dean Gittler to various faculty members in these schools pertaining to that program?

A Yes.

Q And that committee?

A Yes.

• • • •

[178] Q (By Mr. Kramer) Tell us about this memorandum, Dr. Fishman.

A In this memorandum, Dean Gittler thanks all those to whom he had sent it for their—for having gotten together previously to plan this joint masters program [179] in communications, and indicates which of them had been selected at that previous meeting to be the subcommittee to continue the planning.

Q And who was the subcommittee selected, Dr. Fishman?

A Professors Horner and Fowles of the Ferkauf Graduate School, Professors Shram of Stern College for Women, and Professor Keating of Yeshiva College, with Dean Gittler ex officio, and Professor Horner of the Ferkauf School as Chairman.

And he goes on to spell out the various things that they had agreed upon in their previous meeting, the number of credits and the nature of the program, the thrust of the program, and that he has asked Dr. Horner to convene the subsequent. And when a draft of the program is completed, a draft of the program that the committee will recommend is completed, then it will go for further study and approval to the Ferkauf Graduate School curriculum committee, to the graduate council of the university, and to the executive council of the university.

* * * *

[183] Q Does the Wurzweiler School participate in a joint BA-MSW program?

A Yes.

Q With what other college faculties, Dr. Fishman?

A It has a joint program together with the Erna Michael School and Yeshiva College.

Q How is that program developed, Dr. Fishman?

A It was developed under the leadership of the Wurzweiler faculty jointly with faculty in the other two colleges.

* * * *

[184] Q Dr. Fishman, does the Bernard Revel faculty participate in a joint BA-MA Program in Jewish studies?

A Yes. There is a joint BA-MA program in Jewish

studies between Bernard Revel, Yeshiva College, Erna Michael College and Stern College.

Q And how was that program developed, Dr. Fishman?

[185] A It was developed by a faculty committee, drawing on the faculties of those colleges.

Q And is there a committee in existence to monitor the operation of that program?

A Yes, there is.

Q Is this an interschool committee?

A An interschool committee between those four schools.

* * * *

[205] Q Now, Dr. Fishman, you have talked about certain BA and MA programs, certain BA-MS programs and a BA-MSW program, all of which you told us require interschool coordination.

Do there also exist university wide interschool committees which deal with various academic matters?

A Yes.

[206] Q Might these also be called subcommittees?

A Could be subcommittees or committees.

Q Are they in fact university wide committees on the articulation of mathematics, physics, psychology, sociology, statistics, eduation, communications and Judaic studies?

A There are committees on all of those fields, yes.

Q Now, in preparation for this case and at my request have you had prepared rosters of each of these faculty committees?

A Yes, sir.

Q They are faculty committees, are they not?

A They are faculty committees.

Q And does each roster show the base appointment of the faculty member involved?

A Yes, sir.

(A document was marked Employer's Exhibit 29, for identification.)

Q (By Mr. Kramer) I show you Employer's Exhibit 29, marked for identification.

Would you tell us what this exhibit is?

A This is the committee concerned with mathematics and physics instruction at the university.

Q Well, would you refer to the entire exhibit, Dr. [207] Fishman, which is eight pages.

A The second committee is the committee concerned with the planning of psychology throughout the university. The third committee is a planning committee for a future program in sociology at the university.

The fourth committee is an interschool committee on statistics, graduate program in statistics at the university.

The fifth committee is a committee for the coordination of educational programs at the university, that is teacher education, professional teacher education at the university.

The sixth committee is the committee for planning the new communications program at the university. Committees seven A and seven B are committees for Judaic studies at the university.

Q Now is it a fact, Dr. Fishman, that each and every one of the committees you've just referred to has on it both members of the faculty of graduate schools and members of the faculty of undergraduate schools or an undregraduate school?

A Yes. That's true for each of the committees.

Q Each and every one of these committees crosses the graduate-undergraduate line?

A Yes.

* * * *

[210] Q (By Mr. Kramer) Dr. Fishman, is there currently in existence at your university a subcommittee on BA-MA Jewish studies?

A Yes.

(A document was marked Employer's Exhibit 30, for identification.)

Q (By Mr. Kramer) I show you Employer's Exhibit 30, marked for identification, a document entitled "subcommittee on BA-MA Jewish studies."

Is this in fact a subcommittee?

A Yes, sir.

MR. KAMER: I offer Employer's Exhibit 30 in evidence.

Q (By Mr. Kramer) Is there currently in effect at your university a committee or subcommittee on BA-MA Chemistry?

A Yes, sir.

Q Do you know that for a fact?

A Yes, sir.

* * * *

[212] Q (By Mr. Kramer) Is there currently in existence at your institution a subcommittee on Bachelors-Masters, physics?

A Yes, sir.

Q I show you Employer's Exhibit 32, marked for identification, entitled "Subcommittee on BA-MA Physics," with a list of names and school affiliations.

Is that in fact a committee?

A Yes, sir.

Q And should that also be entitled BA-MS Physics?

A It should be corrected.

(Discussion off the record)

HEARING OFFICER: Back on the record.

Q (By Mr. Kramer) Based on discussions we have had off the record, Dr. Fishman, let me ask you again whether the title subcommittee on BA-MA Physics is correct or not?

A Yes, it's correct.

Q You have been so advised by the dean of the Belfer School who is in the room, is that correct?

A Yes.

* * * *

[213] Q (By Mr. Kramer) Dr. Fishman, do you have at your university at the current time a subcommittee on BA-MA Mathematics?

A Yes, sir.

* * * *

[215] Q (By Mr. Kramer) Dr. Fishman, does Yeshiva University have a subcommittee on BA-MA in Psychology?

A Yes, sir.

Q Is it in existence at the present time?
A It is.

• • • •

[216] Q (By Mr. Kramer) Finally, Dr. Fishman, is there a subcommittee on BA-MS in social work at Yeshiva University?
A Yes, sir.
Q I believe you told us previously there is a BA-MSW program at the University, is that so?
A Yes.

• • • •

[217] Is it correct that each and every one of these subcommittees has on it representatives of graduate faculty and undergraduate faculty?
A Yes, sir.
Q Without exception?
A Yes, sir.
Q Now, Dr. Fishman, in addition to the committees, faculty committees you've just testified about, is there also presently in existence at Yeshiva University a university committee on joint programs?
A Yes, sir.
Q Is this an administrative committee as opposed to a faculty committee?
A Yes.
Q Who serves on this committee, Dr. Fishman?
A Deans of the various undergraduate and graduate schools.

[218] (A document was marked Employer's Exhibit 36, for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit 36, marked for identification, a document entitled "University committee on joint programs."
Is this the roster of the committee about which you've just testified?
A Yes, sir.
MR. KRAMER: I offer Employer's Exhibit 36 in evidence.
MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 36 received in evidence.

(Document previously marked Employer's Exhibit 36, for identification, was received in evidence.)

Q (By Mr. Kramer) Dr. Fishman, is there currently in existence at Yeshiva University a committee on grants?
A Yes, sir.
Q And is this a mixed committee of administration and faculty?
A Yes, sir.

• • • •

[220] Q (By Mr. Kramer) Dr. Fishman, does the university have a business computer?
A Yes.
Q Does it also have an academic computer?
A Yes, it has. It has two academic computers.
Q It has two academic computers.
Let's return to the business computer for a moment. For what purpose is the business computer used?
A The business computer is used in connection with all of the fiscal records of the university, including payrolls.
[221] Q Does it service all the schools of the university?
A Yes.
Q And all the central administration?
A Yes.
Q You told us there are two academic computers. Where are those academic computers located?
A The basic academic computer is at the medical college.
Then there are terminals for academic computer use, and one of them Belfer also had some—can also be used as a computer for—in itself, rather than just as a terminal from the Medical College.
Q Which faculty department is responsible for the management of the law jacked demi-computes located at the Medical School?

A I associate to the name of Professor Landovitz with it.

Q In what department is he?

A I believe mathematics.

Physics.

Q And that would be at the Belfer School, is that correct?

A He is at the Belfer School. The computer is at the medical college.

Q Right. Is there a university wide academic computer committee?

A Yes.

[222] (A document was marked Employer's Exhibit 38, for identification.)

Q (By Mr. Kramer) Now, I show you a document marked Employer's Exhibit 38 for identification, entitled "University wide academic computer committee."

Is there such a committee in existence at the university?

A Yes, sir.

Q And is this the roster of that committee?

A Yes.

Q Now, I notice that one gentleman, A. Myers, has no school affiliation annexed to his name.

Do you know for whom he works?

A No, sir.

MR. KRAMER: We would be prepared to stipulate that Mr. Myers is a non-faculty employee in the office of financial services of the university. His precise title is Director of Data Processing.

MR. SCHECTMAN: So stipulated.

HEARING OFFICER: The stipulation is received.

Any objection to the exhibit?

MR. KRAMER: One last question.

Q (By Mr. Kramer) Would you point out to the Hearing Officer anyone on that list who is an administrator?

[223] A The administrators I recognize are I. Bacon, Yeshiva College; J. Gittler, Ferkauf; S. Hoenig, Revel;

E. Jaffe, Einstein; A. Komar, Belfer; D. Mirsky, Stern; W. Rosenthal, Wurzweiler; S. Socol, Vice President for Business Affairs.

Q Would it be correct to say that is a mixed faculty-administration committee?

A Yes, sir.

* * * *

[246] Q Dr. Fishman, I show you Employer's Exhibit 29, particularly the first page of that exhibit entitled "One, Mathematics, Physics," a page that has been withdrawn from evidence.

During the period since the last hearing, since June 11, have you check to determine whether there is a math-physics Liaison committee?

A Yes.

Q And is this the committee?

A That is the committee.

Q And is it in fact an active committee?

A It is an active committee.

Q Having met this year?

A Yes.

* * * *

[247] Q Now, Dr. Fishman, let us turn for a moment to the goverance of the university.

You told us that the ultimate governing body is the board of trustees; is that correct?

A Yes.

Q Is that so for the entire university?

A Yes.

Q For all schools?

A Yes.

Q And who is the chief executive officer of the university?

A The president.

Q Are there vice presidents serving under him?

A Yes.

Q What are their titles, Dr. Fishman?

A Vice president for student affairs; vice president for business affairs. There is a vice president for academic affairs.

Q And that is the same vice president for student affairs for all of the schools?

A Yes.

Q And the same vice president of academic affairs for all of the schools?

A Yes.

[248] Q And the same vice president for business affairs for all of the schools; is that correct?

A Yes. With the college of medicine excepted.

MR. KRAMER: We ought to note for the record that unless we say otherwise, we are not dealing with the college of medicine.

It is my understanding that it is not petitioned for.

MR. SCHECTMAN: It is my understanding that the university has stipulated that it will not be considered as part of the corporate unit.

MR. KRAMER: I don't know that we stipulated to that effect. We assume that the board would so conclude.

Q Is there also a body called the board of governors of the graduate school?

A Graduate schools.

Q Is that an advisory body or a governing body?

A It is an advisory body to the board of trustees.

Q Who created the board of governors of the graduate school?

A It was created by the board of trustees.

Q Would that be in or about February of 1973?

A About a year and a half ago.

Q Is there any reference to the board of trustees in the charter—strike that.

Is there any reference to the board of governors of the [249] graduate school in the university's charger and enabling documents?

A Yes.

Q By "enabling documents," Dr. Fishman, I mean all the amendments to the charter.

A Yes.

Q I take it there is no such reference?

A Yes.

Q Those are in evidence, are they not, as Employer's Exhibit 1 in this proceeding?

A Yes.

Q Does the board of governors have a role in development?

A That is the major role of the board of governors of the graduate schools, to help in fund-raising for the university.

Q Is that what the development is called in the university parlance?

A Yes.

Q Has the board of governors the authority to hire anyone or fire anyone?

A No.

Q To establish any wages, hours or working conditions?

A No.

Q Or to direct the establishment of any wages, hours or working conditions?

A No.

[250] Q To remove any of the officers or professors of the university?

A No.

Q Or any other members of its faculty?

A No.

Q Now, putting aside the advisory board of governors of the graduate schools that we have just discussed, is there in addition to the board of trustees of the university a university executive council?

A Yes.

Q And would you tell us who makes up the executive council?

A The executive council consist of the deans of the various schools, the directors of the various divisions of the university, whether they be academic divisions or other divisions.

Q Are they elected, Dr. Fishman, or are they appointed?

A Appointed. You mean to office or this committee?

Q To the committee.

A They are appointed to the committee.

Q For that matter, Dr. Fishman, are there elected officers or appointed officers?

A To my knowledge all of these officers are appointed. I know they are all appointed to the committee.

Q Appointed to the committee by whom?

A The president.

[251] Q Appointed to office by whom?

A The president.

Q With the concurrence of the board of trustees of the university; is that correct?

A Yes.

Q What is the function, or what are the functions, of the executive council?

A The executive council meets frequently, normally twice a month, to share all of the academic and administrative problems of the university, to be sure that all deans and directors are aware of what is occurring, and what is of concern to any part of the university.

Q As matters stood during the academic year 1973-74, Dr. Fishman, did the executive council issue instructions or directives to the administration of the university?

A The executive council is primarily a recommending body, it discusses issues that are brought to it by responsible authorities anywhere in the university, and then recommends to them, but essentially to the president who then issues directives.

Q I see.

Now, in addition to the executive council are there also elected councils at the university?

A Yes.

Q How many of them are there?

[252] A There is the graduate council, there is the undergraduate council, various elected committees. I am not sure if you are referring to them.

Q There is the graduate council?

A Yes.

Q And there is the undergraduate council?

A Yes.

Q Now, let's turn to the graduate council for a moment.

Would you tell us how that council is constituted?

A That council consists of elected student and elected faculty representatives from each of the graduate schools, as well as a number of appointed administrative officers throughout the university.

MR. KRAMER: Will you mark this Employer's Exhibit 48 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 48 for identification.

(Employer's Exhibit 48 marked for identification.)

Q I show you a document entitled "Membership List, Academic Council of the Graduate Schools of Yeshiva University." Was this list prepared by someone under your supervision and control?

A Yes.

Q To the best of your knowledge is this list correct?

A Yes.

[253] Q And this list includes both faculty and students, does it not?

A Yes, their names and addresses.

Q It is entitled "Academic Council of the Graduate Schools, Yeshiva University." Is the correct title for this organization "Graduate Council"?

A We call it the graduate council. I am not sure whether the official name is academic council of the graduate schools, or the graduate council.

Q The official name would be in the faculty handbook, would it not?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 48 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 48 is received in evidence.

(Employer's Exhibit 48 received in evidence.)

Q Mr. Fishman, you told us that there is also an undergraduate council; is that correct?

A Yes.

MR. KRAMER: Will you mark this Employer's Exhibit 49 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 49 for identification.

(Employer's Exhibit 49 marked for identification.)

[254] Q I show you Employer's Exhibit 49 for identification, a document that purports to be a list of undergraduate council 1973-74.

Is this in fact such a list?

A Yes.

Q How is the undergraduate council constituted?

A The faculty and student representatives are elected from the undergraduate schools, and the administrative representatives are appointed.

Q I see you sit on this council, Dr. Fishman.

A Yes.

Q I see that you, referring to Employer's Exhibit 48, also sit on the graduate council.

A Yes.

Q Is that correct?

A Yes.

Q That there are essentially administrative personnel in addition to yourself on both councils?

A Yes.

Q Turning a moment to Employer's Exhibit 49, the first line says "This is the list of undergraduate council as given to me by the 1973-74 secretary."

Was this list in fact given to you by the secretary of this council, the 1973-74?

A Yes.

[255] Q Is it correct to the best of your knowledge?

A Yes, it is.

MR. KRAMER: I offer Employer's Exhibit 49 in evidence.

HEARING OFFICER: It will be received in evidence.

(Employer's Exhibit 49 received in evidence.)

Q Dr. Fishman, will you tell us what the function of the graduate council is supposed to be?

A The purpose of the graduate council is to enable graduate faculty and students and university administrators normally to be concerned with the problems that they all face together, common problems to the graduate level. It could be problems from any level of the university that have graduate level consequences, have implications for graduate students or graduate faculty.

Q Is the subject of integration with the undergraduate programs a subject for the graduate council?

A It certainly would be a subject that they would be concerned with.

Q Will you tell us what the function of the undergraduate council is?

A Similarly, the undergraduate council is concerned with whatever issues are common to undergraduate faculty and undergraduate students, and that arise anywhere in the university and have implications for undergraduate instruction.

Q Would the subject of integration with the graduate schools, [256] graduate faculty, for that matter graduate students, be a subject for the undergraduate council?

A Yes, it was been the subject.

Q It has been the subject?

A Yes.

Q At meetings you have attended?

A Yes.

Q Now, you have referred in addition to these two elected councils, Dr. Fishman, to an appointed council called the executive council, have you not?

A Will you repeat the question?

MR. KRAMER: Repeat the question.

(Question read.)

A Yes.

MR. KRAMER: Will you mark this Employer's Exhibit 50 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 50 for identification.

(Employer's Exhibit 50 marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit 50 for identification, a document entitled, "Yeshiva University, Members of the Executive Council, 1974-75."

Is this a roster of the executive council?
A Yes.

* * * *

[258] Q Dr. Fishman, is the executive counsel and are the graduate councils and undergraduate councils referred to in a document called "Faculty Handbook"?
A Yes.
MR. KRAMER: Will you mark this Employer's Exhibit 51 for identification.
HEARING OFFICER: Mark it Employer's Exhibit 51 for identification.

(Employer's Exhibit 51 marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit 51 marked for identification, a document entitled "Faculty Handbook." Is [259] this in fact the faculty handbook?
A Yes.
Q And except as otherwise noted within the book itself, does this handbook cover the entire faculty of Yeshiva University?
A Yes.
Q On May 20, 1974, was an amendment promulgated to this handbook?
A Yes.
Q That amendment is not in the form, is it, for insertion into this book?
A No.
MR. KRAMER: For the record, there is what they call a split binding on this book.
Q Is that right?
A Yes.
Q This amendment is by memo, I take it; is that right?
A The revision of the handbook to which that memo refers is in the handbook. The memo is a notification to the deans to please point out that revision to the faculty so that they make appropriate changes in the handbook.
Q Just so the record is clear, the revision contained in the memo which you just referred to is, that printed in some way in Employer's Exhibit 41 that is marked for identification?

A The revision in the enture policies in the handbook, [260] because prior to that memo a new statement was distributed to be included in the handbook. I assume it is in here.
MR. KRAMER: Will you mark the Employer's Exhibit 52 for identification.
HEARING OFFICER: Mark it Employer's Exhibit 52 for identification.

(Employer's Exhibit 52 marked for identification.)

Q Now, I show you Employer's Exhibit 52 marked for identification. Was this exhibit, which is a memorandum dated May 20, 1974, subject Outside Employment, from you to Deans Bacon, Gitler, Hoening, Jaffe, Comar, Mirsky and Rabinowitz in fact sent?
A Yes.
Q Now, the first paragraph of Exhibit 52 marked for identification refers to a revised tenure statement; is that correct?
A Yes.
Q Is that revised tenure statement included in Employer's Exhibit 51 marked for identification?
A Yes.
Q Now, the second paragraph of Employer's Exhibit 52 requests the deans to please ask all full-time members of their faculty to make the appropriate correction in the section of the faculty handbook dealing with faculty load so that it will read, and there is a quote.
A Yes.
[261] Q Is that appropriate correction embodied in Employer's Exhibit 51?
A No.
When the tenure statement was changed, a new page of the handbook was distributed for insertion. But that change has implication to the second section that you are now referring to, the faculty load section.
So this memo asks the people to do it by hand.
Q The faculty load section of the handbook is found on page 7 of Employer's Exhibit 51?
A Yes.

Q And it is modified by Employer's Exhibit 52; is that correct?

A Yes.

MR. KRAMER: I offer Employer's Exhibits 51 and 52 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 51 and 52 are received in evidence.

(Employer's Exhibits 51 and 52 received in evidence.)

Q Now, Dr. Fishman, the handbook which is in evidence as Employer's Exhibit 51 as amended by Employer's Exhibit 52 makes reference to a faculty—a university faculty review committee.

Are you familiar with that committee?

[262] A Yes.

Q Will you tell us what the functions of the university faculty review committee are?

A It is a university-wide grievance committee to which any faculty grievance could be brought, but its primary function is for the review of grievances pertaining to nonpromotion, a faculty member who has not been promoted for a long period of time, I believe it is ten years, can appeal to the grievance committee automatically, automatically has his case reviewed by the grievance committee.

But a faculty member not promoted at any time, or not given tenure at any time, can bring his grievance to the grievance committee.

Q How is this grievance committee constituted?

A The grievance committee consists of elected representatives of the various schools.

Q When you say of the various schools, do you mean all of the schools?

A All of the schools.

Q In other words, it is a fact, then, Dr. Fishman, that undergraduate faculty, that is, faculty having their base appointments in undergraduate schools, actually sit on the grievances filed by graduate faculty?

A Yes.

Q And of course vice versa?

[263] A Yes.

Q Does the university faculty review committee have prodedural bylaws?

A I really don't know.

MR. KRAMER: Will you mark this Employer's Exhibit 53 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 52 for identification.

(Employer's Exhibit 52 marked for identification.)

Q Is it that you don't know whether the committee has bylaws, or whether the bylaws are called procedural bylaws?

A I didn't realize it had a document called procedural bylaws.

Q You understood that it had bylaws, did you not?

A I understood that it had established ways of functioning.

Q Now, I show you Employer's Exhibit 53 marked for identification, a document entitled "University Faculty Review Committee Procedural Bylaws." Were these bylaws drawn from your files?

A Yes. I have files of all the committees.

Q To your knowledge, Dr. Fishman, are these the bylaws of the university faculty review committee?

A This is what I would go to to find out how the faculty review committee functions, look it up under faculty review committee, and this is what I would find.

[264] Q This is what you found in your files?

A Yes.

Q Did you have reason to be involved with the faculty review committee during the 1973-74 school year?

A No.

MR. KRAMER: We offer Employer's Exhibit 53 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 53 is received in evidence.

(Employer's Exhibit 53 received in evidence.)

Q Dr. Fishman, has the university faculty review committee actually handled any grievances?

A This year it had a number of informal issues, but it hasn't had any formal grievances to pass upon this year.

Q That is this year, how about in prior years?

A In prior years it has had formal grievances.

Q Has it received grievances from graduate faculty?

A Yes.

Q Do you recall from what schools?

A Is has received grievances over the last few years that I recall from Albert Einstein College of Medicine, from the Ferkauf School, and from the Wurtzweiler School. The ones I remember.

Q Members of the faculty in this schools?

A Yes. Faculty members primarily based at those schools.

[265] But a large part of its business is informal, as faculty members will informally check with the chairman as to what does he advise them in connection with the grievance that he has.

Q Do you have any recollection of the names of the faculty members that are involved?

A I don't remember the names, I just remember the schools involved, because it was something I looked up.

MR. KRAMER: Will you mark this Employer's Exhibit 54 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 54 for identification.

(Employer's Exhibit 54 marked for identification.)

Q I show you Exhibit 54 marked for identification. Will you look at it?

A Yes.

Q Does this exhibit refresh your recollection?

A Yes, these are the names that I extracted from the records when I was trying to find out what schools had made use of the faculty review committee.

Q Would you tell the hearing officer the faculty members?

A There are Dr. J. J. Smith at Einstein; Dr. H. Rappaport at Einstein; a Dr. N. Greenberg at Wurtzweiler, and a Dr. S. Simonson at Ferkauf.

MR. KRAMER: I am not going to offer Exhibit 54 for [266] identification, but I will leave it here.

Q Dr. Fishman, in addition to the many committees that you have testified to, and several councils that you have referred to, are there various school committees that deal with various subject matters?

A Yes, there are several such.

Q Would you give us some examples of the kind of school committees that are found in the university?

A Most schools will have a curriculum committee, a promotion committee, depending upon the size of the faculty they will have more or less committees. Most schools will have an admissions committee. Schools might have a standards committee.

Q Does each undergraduate school have committees?

A Yes.

Q Each one has its own set of committees?

A Yes.

Q Stern has them?

A Yes.

Q Yeshiva College has them?

A Yes.

Q Erna Michael has them?

A Yes.

Q And of course each of the graduate schools has its own set of committees, does it not?

[267] A Yes.

Q Now, do each of the undergraduate schools have a set of bylaws, or governance documents?

A Yes.

Q For that matter, one governance in each school?

A There are governance documents for the governance bodies that schools have.

Q That is so in Stern?

A Yes, there is a governance document.

Q There is one for Yeshiva?

A There are actually two such documents.

Q And there are also governance documents in existence for Belfer?
A Yes.
Q And Ferkauf?
A Yes.
Q And the other graduate schools?
A Yes.
Q There is no one single governance document in existence for the undergraduate schools?
A No.
Q And there is no one single governance document for the graduate schools?
A No. Other than the faculty handbook.
Q Which covers all of the schools, all of the university?
[268] A Yes.
Q Now, are you in a general fashion familiar with the Yeshiva College faculty assembly, and the Yeshiva College senate?
A To some extent.
Q Will you describe for us in lay terms, Dr. Fishman, the function of the Yeshiva College faculty assembly and how it is constituted?
A The faculty assembly consist of all full-time faculty members involved in the instruction of Yeshiva College in any particular academic year.
Q That is so regardless of their base appointment?
A Yes.
Q Are members of the Belfer faculty eligible to be members of the faculty assembly at Yeshiva College?
A Those who are teaching undergraduate courses at Yeshiva College in any particular year will be members of the Yeshiva College assembly that year, since most of them are doing so they are most of them members.

* * * *

[269] Q Dr. Fishman, I show you Employer's Exhibit 55 marked for identification, a document entitled "Yeshiva University, Yeshiva College Faculty Statute." Is this in fact the faculty statute of Yeshiva College?
A Yes.

Q Turning to page 5, Dr. Fishman, is the X out there or cross-out in fact, does that represent a deletion from that statute?
A Yes.
Q And I take it, Dr. Fishman, that the faculty assembly to which you referred is the same faculty assembly that is found under the heading II, Faculty Assembly, on page 2 of this exhibit?
A Yes.
[270] MR. KRAMER: I will offer Employer's Exhibit 55 in evidence.
MR. SCHECTMAN: No objection.
HEARING OFFICER: Exhibit 55 is received.

(Employer's Exhibit 55 received in evidence.)

BY MR. KRAMER:

Q There is also a line-out on page 4 of the exhibit. I would assume that would also represent an amendment?
A It is part of the same section.
Q Dr. Fishman, do similar faculty statutes exist at the other undergraduate schools?
A Yes.
Q And at each of the undergraduate schools?
A Yes.
Q Now, you made reference a few moments ago to a Yeshiva College senate?
A Yes.
Q Can you tell us what the function of that senate is?
A The senate at the college meets more frequently than the assembly, and also has student representatives.
Q And what is its function?
A Its function is to review all ongoing concerns as they occur without appreciable delay, whereas the assembly meets regularly only twice a semester, important affairs, particularly affairs that concern the students, so that they should [271] not be delayed, are brought immediately to the senate.
Q Are members of the faculty who have base appointments in graduate schools who are teaching in Yeshiva

College able to run for and serve on the Yeshiva College Senate?

A Yes.

Q Has a Belfer faculty member teaching at Yeshiva College actually run for the Yeshiva College senate?

A In recent times I know of one.

MR. KRAMER: Will you mark this Employer's Exhibit 56 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 56 for identification.

(Employer's Exhibit 56 marked for identification.)

Q I show you Employer's Exhibit 56 marked for identification, a document entitled "Yeshiva University, Yeshiva College, Constitution of Yeshiva College Senate."

A Yes.

Q Is this in fact the Yeshiva College constitution?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 56 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 56 is received.

* * * *

[274] Dr. Fishman, let's turn for a moment to the departmental structure of the university.

Will you tell us how that is arranged?

A Many schools are organized in terms of departments. Some are not, they are organized in terms of divisions or in terms of programs rather than departments.

Q When a field is taught to both undergraduates and graduates, what is the departmental setup, or setups?

A If a field is taught at both graduate and undergraduate levels, there are normally some structure in each school, maybe a department in one and a division in the other, but then there will be some kind of linking structure so that there will be a relationship between the graduate and the undergraduate instructions.

Some of those structures are older than others, some are quite recent.

The university has been building up those links more and more over time. Most of the programs began, the earliest programs began as undergraduate ones. So therefore when the graduate ones were added, after that links were added between [275] them, between the graduate and undergraduate.

The links are liaison committees or working committees that tie the programs together.

Q Dr. Fishman, let me show you the faculty handbook for a moment, Employer's Exhibit 51 in evidence, and more particularly to page 5 thereof.

I note there references to the executive council, the council of graduate schools, and the council of undergraduate schools.

Are these the councils to which you have already testified?

A Yes.

Q Dr. Fishman, on page 6 there is a reference to faculty appointments. Is it a fact, Dr. Fishman, that most faculty members, regardless whether they are paid on a nine-month, which is a ten-installment, or a 12-installment basis, work nine months a year?

A Yes, that is the ordinary academic year that the faculty teach.

Q And their regular salaries are related to that nine-month period?

A Some of them actually prefer to get paid all of their annual salary in those nine months, others prefer to have it spread out over all twelve months even though they are just teaching the nine months.

[276] Q The full-time work year is nine months?

A Normally.

Q There is in addition, I take it, a summer session?

A Yes.

Q That would require extra payment, would it not?

A Yes.

Q Now, I refer you to page 7, and more particularly to paragraph B on page 7, which states, "Each school within the university will establish for its faculty regu-

lations defining full-time faculty load in continence with its needs and programs."

Are you familiar with that provision?

A Yes.

Q You told us that full-time faculty load is four graduate courses a semester, or 12 undergraduate contact hours a semester; is that correct?

A Yes.

Q That requirement is not stated in paragraph B, is it?

A No.

Q And paragraph B was published, as the page shows, on September 1, 1967?

A Yes.

Q Where does the four-course or 12 credit-hour requirement come from?

A That was a recommendation of the executive council a few [277] years after this, 1971 if I remember the documents I have seen.

Q That is what is in effect at the university today?

A That is the definition which then various schools implemented.

Q Now, turning to page 7, Dr. Fishman, you have referred in your earlier testimony to the university faculty review committee.

A Yes.

Q Is that the committee referred to on that page, page 8?

A Yes, in connection with the policy governing promotions.

Q Dr. Fishman, do you have a function in connection with promotions?

A Yes.

Q Would you tell us what that function is, please?

A All recommendations for promotions finally wind up on my desk. They start out normally in the faculty member's own department where some consensus is reached that he should be recommended for promotion. Department or division, or whatever the unit is.

Normally that then is communicated to the promotion committee of the school, and if that recommendation is

seconded by them, or acceptable to them, they so recommend to the dean who normally himself has to second that recommendation, has to approve that recommendation. Then he sends it to me. He sends it to the office of the president, which [278] essentially is my responsibility. That is part of my responsibility.

Q Now, this recommendation comes to you, Dr. Fishman, what function do you play with respect to these recommendations?

A I evaluate them, I first of all try to make sure that they are phrased in accord with the promotion policy of the school. The school requires certain demonstrated abilities for associate professor, I review the recommendation to see that it refers to those demonstrated qualities. It could be research, a certain level of eminence, proficiency of teaching, university service. Whatever the requirements are, I try to review the recommendations and see whether it comes within those requirements that the school has put on the record as pertaining to that rank.

Then I try to evaluate it further. For example, if the recommendation says that he is a very eminent researcher and is widely known in his field, I would like to see what is the documentation for that. What are the publications, for example. What is the actual evidence that he is a widely known researcher.

In the course of going through these recommendations, therefore it is common for me to have to be in touch with the dean to ask for additional information, or to express problems that I am having in seeing how that recommendation is arrived at.

[279] Q Now, this year, Dr. Fishman, did you in fact have a conversation with Dean Bacon of Yeshiva College about the qualitative aspects of a particular promotion?

A I have had conversations with almost every dean who has recommended every promotion this year in those terms?

Q Did you also have a conversation with Dean Bacon?

A Yes.

Q Without detailing the faculty member's name, unless that is asked for on cross examination, would you tell us what transpired with respect to you and between you and Dean Bacon with respect to this particular promotion this year?

A The conversation--a conversation that I remember of this kind dealt with the faculty member being promoted to associate professor, or being recommended for promotion to associate professor.

Like most deans, Dean Bacon wanted to be sure that I would understand the recommendation. This is common procedure at the university, that we will informally discuss recommendations even before they are formally made so as to be sure that they are understood, that they are sufficiently well explained, so that they won't run into last minute questions, and so that they don't have to be turned down.

He was briefing me on a recommendation that he was going to make. It appeared from what he said that the faculty member in question had two or three publications in the last [280] several years. I expressed doubt, by their own formulation of requirements for associate professor, two or three publications really was indicative of sufficient research, sufficient scholarly productivity to permit that rank.

Well, it turned out that these publications were books that hadn't been cleared in the way the recommendation was phrased, they were books, which in itself is quite a difference from having two or three journal articles, or two or three books in a few years.

So I then asked would he be kind enough to let me have copies of those books, and he did, and I skimmed one of them and read parts, large parts of another one of them, so as to be able to come to some impression of my own with respect to the substantiation for the recommendation.

Q Was the recommendation submitted to you on a formal basis?

A Yes.

Q Was it subsequently approved by you?

A Yes.

Q Dr. Fishman, I assume that there are areas in the university that are outside of your ken?

A Yes.

Q Do you receive recommendations in those areas?

A Yes.

Q Are you free to consult wih faculty both inside and [281] outside the university with respect to the substance of those recommendations?

A Yes.

Q Based on that consultation, do you draw your own conclusions?

A Yes. For recommendations outside of fields that I am familiar with, the deans very frequently include evidence in terms of recommendations from people outside the university as well. So it becomes clear to me that it is not merely sort of an internal routine rubber-stamp promotion, that people in the field itself consider that recommendation to be of merit.

Q Do you have authority to call those people and talk to them?

A Yes, I do.

Q Without your approval, Dr. Fishman, the promotion would not stand?

A That is correct.

Q No, it would not stand?

A No, it would not stand.

Q Is that so whether the school involved is Ferkauf?

A Yes.

Q Or Belfer?

A It is true for Belfer, Ferkauf.

Q Yeshiva College?

[282] A Yes.

Q For all the schools in the university except the medical school; is that correct?

A Yes.

Q Dr. Fishman, you have told us that there is a graduate council and an undergraduate council.

A Yes.

Q During the month of June did the graduate council create a special committee?

A At its last meeting of this academic year in June it recommended the creation of such a special committee.

Q What was the title of this special committee, the name?

A A committee on priorities and planning, or planning and priorities.

Q Does the committee on planning and priorities include solely the graduate council, or would there be a broader base?

A Their recommendation was the entire graduate council and the entire undergraduate council together be constituted a committee on priorities and planning, university committees on priorities and planning.

Q In essence, they sit together?

A That was their recommendation.

Q Was a chairman of this committee appointed?

A They recommended that Sheldon Socol be appointed.

Q What is the purpose of this committee?

[283] MR. SCHECTMAN: I object to the question, that there is no such committee.

Q Dr. Fishman, do you know whether this proposal by the graduate council has been accepted by the undergraduate council?

A I know that it has been accepted, but I also—but it also has to be brought to the executive council for approval.

Q To your knowledge, Dr. Fishman, is there any reason why this proposal will not be accepted by them?

A There is no reason why it shouldn't be accepted.

Q What will be the purpose of this committee once it is approved by the executive council?

A I can only speak to the recommendation.

Q Would you do so?

A The recommendation is for that committee to review the various needs of the university. These needs each have their own fiscal consequences, and therefore these needs compete with each other for the university's funds.

Therefore, to arrive at an overall plan for priorities in terms of the university's plans across all of the needs of the university, to plan for a long-range approach to the university's needs, and to set priorities.

Q And this approach to integration and cooperation had its genesis in the graduate council?

A Yes.

[284] Q Let's turn to page 9 of the faculty handbook, Employer's Exhibit 51 in evidence.

MR. KRAMER: Strike that.

Q Dr. Fishman, let's turn to the five pages following page 8, none of which are numbered, which are found in Employer's Exhibit 51 which is in evidence. The first of those pages is headed "Statement of Tenure and Appointment Policy."

Dr. Fishman, are those pages in fact the tenure policy of Yeshiva University with the exclusion of Albert Einstein College of Medicine?

A Yes.

Q Is this the revised tenure policy that you referred to earlier?

A This is the recently revised statement.

Q And it applies throughout the university except for Einstein; is that correct?

A Yes.

Q When changes in the tenure policy have been made, Dr. Fishman, they have been made university-wide; is that correct?

A Yes.

Q Again excepting the medical school?

A Yes.

Q Did there come a time in February, 1974, when the academic deans and directors of the university were asked by [285] you to give further consideration to changes in tenure policy?

A Yes, I did ask them to consider further guidelines with respect to tenure without necessarily saying that it would have to be change in the tenure policy.

Q If there were a change, however, it would be on a university-wide basis?

A Yes, I approached them all in this connection.

MR. KRAMER: Mark this Employer's Exhibit 58 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 58 for identification.

(Employer's Exhibit 58 marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit 58, it is a memorandum to academic deans and directors under the date of February 18, 1974, from you, re: further guidelines re tenure.

Is this a memo you sent to all the academic deans and directors?

A Yes.

* * * *

Q Dr. Fishman, on June 11 you testified at some length [286] about the chemistry, university-wide chemistry department being developed at Yeshiva University; is that correct?

A Yes.

Q You also testified about a doctoral review project of the State of New York?

A Yes.

Q I believe the last of the documentation with respect to this review project is Employer's Exhibit 13 in evidence.

A Yes.

Q And that is the letter, is it not, Dr. Fishman, to Dr. Harrison, the director of the office of doctoral project, from President Belkin under date of May 14, 1974?

A Yes.

Q Now, since the last hearing, Dr. Fishman, has the University received a further report from the New York State Education Department Office of Doctoral Review Project, a report about the chemistry graduate teaching function at Belfer?

A Yes.

Q Will you tell us what the report recommended?

A The report from the doctoral project indicated the ratings that were given to all of the doctoral chemistry programs in New York State, and then classified them into clearly acceptable, provisionally acceptable, and unacceptable, and had a few words to say about each of those programs in order [287] to indicate why they were so classified.

Unfortunately, our chemistry program was classified as unacceptable.

Q Did the State make a recommendation about its continuance or discontinuance?

A It recommended a discontinuance of all the unacceptable programs, including our own.

Q That took place about June 17, 1974, did it not?

A Yes.

Q As a result of the receipt of that letter, Dr. Fishman, did you and others in responsible positions at the university go to Albany to discuss the report with Dr. Harrison?

A I and Dr. Socol and Dr. Pomerantz, who is chairman of the graduate chemistry program, and the man who has planned, or been in charge of the planning for chemistry at the university in the future involving both the graduate and undergraduate departments, we went together in order to ask the review committee to reconsider that classification, and to point out why the program should not be classified as unacceptable given all of the planning that had gone into overcoming exactly those deficiencies they had pointed to.

Q Planning for the development of a university chemistry function and department?

A Yes.

Q Was that emphasized in Albany?

[288] A Yes.

Q Dr. Fishman, if the State persists in its recommendation to the point of decision, what would be the effect on the doctoral program?

A The state would then—the state authorization authorities would de-register the program, and that would mean that the university would no longer be able

to offer such program. Therefore it would have to close that program.

Q You have told us—

A Just close it out.

Q You told us in your testimony just a few minutes ago that the university has a university-wide tenure policy?

A Yes.

Q Assuming that the doctoral program were discontinued, what would be the effect of that policy with respect to the tenured faculty members in chemistry at Belfer?

A We would try to absorb them in the undergraduate, in the remaining chemistry work at the university. Depending on the seniority of the people involved, and depending on the capacity of those remaining programs to absorb people, they would be absorbed just as far as possible.

* * * *

[290] Q Dr. Fishman, you told us about a role you play with respect to promotions, do you also have a role with respect to the granting of tenure?

A Yes.

Q Will you tell us about that role?

A As you will note from that memorandum of mine to all the deans, I am concerned with the balance between tenured and untenured faculty, and therefore when faculty members approach the length of service that brings them close to the time when they would automatically receive tenure were they to continue in their current positions, their current titles, the deans will apprise me of the fact that a decision has to be made as to whether or not these people should be reappointed. Because if they are reappointed, that will automatically provide them with the tenure. Whereas if they are not to be reappointed, the university policy is that they be notified by a certain date, that date being established so as to provide as much time as possible for them to find other positions.

The deans will first call and come and we will discuss the question, and it will normally be decided in terms of

the financial capacity of the university to carry another tenured commitment, and the impact on that department, would that mean [291] that given the fact that it is now more and more difficult to add more faculty to the rolls because of financial concerns with even being tenured than a department may not be able to add any more faculty after that if this new person we are talking about would be appointed.

Of course it is not desirable to let him go. On the other hand, you have to weigh the alternatives, is it more desirable to have a new person come in and provide new thought, new experience, new ideas in the department.

So there is the departmental balance, and the school-wide balance of tenured versus untenured faculty that I am more concerned with. The fiscal issues are taken up with the whole fiscal side of the university planning.

Q Do you attempt to reach agreement with the deans in this area?

A Yes.

Q Have you been able to do so?

A Yes.

Q Dr. Fishman, in the absence of agreement, do you have the authority to deny a tenure recommendation?

A Yes.

Q Dr. Fishman, are you generally familiar with the type of fringe benefits that the university affords full-time faculty?

A Yes, roughly.

Q I am putting aside the medical school for purposes of [292] these questions.

A Yes.

Q Does the university have a pension plan?

A Yes.

Q For all members, full-time members of the faculty?

A Yes.

Q Is the same pension plan available to all of those members of the faculty?

A Yes.

Q Does the university provide full-time faculty with a health insurance and major medical program?

A Yes.

Q Is the same program offered to all full-time members of the faculty?

A Yes.

Q Dr. Fishman, does the university have a tuition remission policy?

A Yes.

Q What do we mean, Dr. Fishman, by tuition remission?

A The university permits close relatives of members of its full-time faculty, for example children of full-time faculty, spouses of full-time faculty, to attend the university at a lower tuition than others. Half of the tuition is remitted, or not charged, or waived for these people.

Q May members of the staff also take courses?

[293] A Certain members of the staff also qualify.

Q Dr. Fishman, is there a regulation governing staff members taking courses at Yeshiva University?

A Yes.

Q Is this a regulation promulgated by the executive council?

A Yes.

Q And does it apply university-wide?

A Yes.

MR. KRAMER: Will you mark this Employer's Exhibit 59 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 59 for identification.

(Employer's Exhibit 59 marked for identification.)

Q I show you Employer's Exhibit 59 marked for identification, a document entitled "Yeshiva University Executive Council, July 15, 1971, Regulations Governing Staff Members Taking Courses at Yeshiva University."

Is this document the document that contains the regulations that you just referred to in your testimony?

A This is a document pertaining to this topic.

MR. KRAMER: I offer Employer's Exhibit 59 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 59 is received in evidence.

[294] (Employer's Exhibit 59 received in evidence.)

Q Is the same tuition remission policy the same for all schools?

A Yes.

Q Whether graduate or undergraduate?

A Yes.

Q And the regulation that was just placed in evidence as Employer's Exhibit 59, that applies to all schools both graduate and undergraduate?

A Yes.

Q To your knowledge, Dr. Fishman, putting aside the medical school, when changes have been made in the past by the university in any of its fringe benefits, did they apply equally to the faculty in all schools?

A Yes.

Q Does the university have a sabbatical leave program?

A Policy, yes.

Q Is it found in the policy handbook?

A The faculty handbook, yes.

Q Does the same policy apply in all schools?

A Yes.

Q Dr. Fishman, may a sabbatical leave be taken by a faculty member in any of the schools without approval of the central administration of the university?

A No.

[295] Q Dr. Fishman, did there come a time during 1971-72 when there was a financial crisis at the university?

A Yes.

Q Was that so announced for all to hear?

A Yes.

Q At that time were certain sabbatical leaves suspended?

A Policy at that time was altered, yes.

Q Tell us about that.

A At that time, and since that time, the alternatives that are stated in the policy no longer obtain. The policy statement in the faculty handbook provides a faculty

member who is granted a sabbatical with the opportunity of choosing between a full year sabbatical at half pay, or a half year's sabbatical paid at the full-time rate.

Since the financial difficulties became as serious as they did, a faculty member is no longer able to choose between those two alternatives. If he applies for a sabbatical, and the sabbatical is granted, he must take a full year's sabbatical at half pay.

Q Has that change been made for all schools in the university?

A Yes.

Q No difference between graduate and undergraduate?

A No difference.

Q Now, Dr. Fishman, is there a mandatory retirement age [296] at Yeshiva University?

A Yes, there is.

Q What is that retirement age?

A It is stated in the faculty handbook. It is age 65. But with the permission of the president on a semester-by-semester basis, faculty members who are so recommended by their deans can be permitted to teach through the age of 68.

Q Does that also require the approval of the central administration?

A Yes.

Q Is that a university-wide policy on an emeritus status?

A I would call that a university procedure with respect to an emeritus status.

* * * *

[297] Dr. Fishman, are you familiar with the calendars that exist in the university?

A Yes.

Q By that I mean generally.

A. Yes.

Q Does each school have a separate calendar?

A Yes.

Q Are those calendars roughly equivalent to each other?

A Roughly the same.

Q You told us in your testimony, Dr. Fishman, that the university has a regulation with respect to outside work by full-time faculty members?

A Yes.

Q Is that policy uniform throughout the university?

A With respect to faculty load and outside employment?

Q Yes.

A Yes.

Q With respect to outside employment, is that policy found in Employer's Exhibit 52?

[298] A Yes.

Q Now, you have told us, Dr. Fishman, that the part of Employer's Exhibit 52 under the heading "Faculty Load" represents a change from the portion of Employer's Exhibit 51, the faculty handbook, dealing with faculty load?

A Yes.

Q What is the substance of that change?

A The substance of the change is the capitalized portion there, approval of the president. Previously outside employment required merely the approval of the dean. With the revised tenure policy, approval of the president for outside employment is now required for a faculty member to maintain his tenured status.

* * * *

[308] Q Now, Dr. Fishman, let's turn to the subject of research grants.

Would you explain for us the various types of sponsorship that exists for such research grants?

A Some research is conducted under university sponsorship. Some research is conducted under outside sponsorship. The outside sponsorship may be private foundations, private sources, or public sources, Federal Government, State Government, or other quasi-government support.

Q Now, are such research grants limited to Belfer or Ferkauf faculties?

A No.

Q Are you familiar with the term "principal investigator"?

A Yes.

Q What does that term mean?

A The principal investigator is the person who is in charge of the activity going on in connection with the particular grant.

Q Would it be fair to say that he manages that grant and project?

A He plans it, he runs it, yes. That is his project.

Q Are you now a principal investigator, Dr. Fishman?

A I am.

Q And when you were a member of the faculty were you a principal investigator?

[309] A Yes.

* * * *

[313] Q Is it a fact, Dr. Fishman, that most Belfer faculty are principal investigators?

A Yes.

Q And that some of the Ferkauf faculty are?

A Yes.

Q Now, would you outline for us in a general way, Dr. Fishman, the procedure, the procedures that are used in going about obtaining a grant and putting it into effect?

A The faculty member first has to have an idea which he considers to be novel, a problem which he considers to be novel or unsolved, and which he believes is of interest to some granting agency so that they would support his work on that problem. He may contact them in a preliminary fashion to find out whether it is true that they are interested, to get their advice with respect to how to draw up an application for them.

He will draw up the application, will get the application forms from them, or from the university office where such forms are available. He will consult with colleagues

and people outside the university for advice as to how to put the application, what to include in it, how to formulate it in such a way that it will be most effective.

When he has it written out he will bring it sometimes to a faculty committee at his school that has to approve it. [314] But most frequently to the dean, who has to approve it, to be sure that the space that such a project would call for and the university services and so forth that it would call for can indeed be made available.

It is then forwarded to the vice president for business affairs for his signature, since someone has to signify that the university takes responsibility for this project were it to be granted.

Assuming that he has passed through all these steps the application is then forwarded before the deadline to the granting agency.

Q On occasion, Dr. Fishman, is the application signed by the dean of the particular school involved?

A That varies from agency to agency, but there are occasion in which the agency requests that the dean sign indicating the approval that I mentioned that has to be obtained.

Q The university approval?

A Yes. Some fiscal officer of the university always has to sign regardless whether the dean signs or not.

Q Now, Dr. Fishman, you have told us that the principal investigator generally formulates the idea for the project; is that correct?

A Yes.

Q Does he also specify the manning for the project?

[315] A Part of the application will indicate the personnel that he anticipates is necessary for that project to proceed. It will include his time, and as many other people as he thinks the granting agency will enable him to hire.

Q Are faculty members other than the principal investigator listed by name?

A Yes, if he is aware of the ones that he wants, and they agree, he will list them by name.

Q Are other personnel sometimes listed by name?

A If he is already aware of who they will be, he will list them by name. Otherwise, he will list them by title, the kinds of duties he would expect.

Q Assuming that the grant is approved by the funding agency, what happens then?

A The university receives notification that the grant has been granted, has been approved.

The principal investigator receives notification.

The university's notification normally goes to one of two offices, either to the president or to the fiscal agent, the fiscal officer, usually the vice president for financial affairs who has signed the application indicating the university's responsibility.

Sometimes the dean of the school if he is also named on the application will receive notification.

At that time the university sets up, one of the financial [316] officers, an account for that grant.

The principal investigator begins to communicate, usually through his dean, to that office, indicating that so and so should be put on the grant budget, whether it is a colleague or whether it is an assistant, or whether it is an assistant, or whether it is a secretary, or whether it is a technician. The principal investigator writes out a memorandum normally, or frequently it will be a form that the university has for adding personnel to the payroll indicating that they should be added under such and such grant number, giving the information about them, how much time they will be working and what their salary should be, what their social security number is, how many dependents they would have, and so forth.

Q Dr. Fishman, are grants a valuable source of summer employment funding?

A Grants typically provide for the principal investigators summer income above and beyond the annual salary that the university pays.

Q The grants are pursued, are they not, year round?

A Many grants are pursued year round, and therefore the grants also provide a certain sum of money toward the faculty member's salary year round. Then they provide his summer salary in addition. And an additional summer salary.

Q Dr. Fishman, once a grant is granted and a research project begun, are there frequently requests for supplemental [317] funding?

A Yes, that happens commonly. The principal investigator asks for additional funds either because he has had a different related idea, or he hasn't been able to complete it as scheduled, he needs some more time, and therefore some more money.

Q Does that follow the same pattern as the original request?

A Roughly the same pattern, yes.

Q Now, how are the results of the research projects disseminated, if at all?

A Most granting agencies require a report in which the principal investigator writes out in some detail what it was that he tried to do, how it went, and what he found, what he concludes needs to be done.

Many granting agencies will provide funds in the grant for duplicating that report and some number of copies, 50 or 100, or 200 even, so that that preliminary report can be distributed by the principal investigator to whomever he likes so he can begin to get comments from colleagues in the field as to whether they agree or don't agree with his finding, as to whether they think he should change his conclusions or his interpretations, or add to his bibliography or so forth.

Finally—that is not really considered publication yet, so thereafter the principal investigator may submit parts, or [318] the entire report for publication to a publisher, to a journal.

Q You have told us that various people work on these grants, they include the principal investigator, do they not?

A Yes.

Q Members of the faculty, full-time?

A Yes, frequently.

Q And part-time faculty?

A Part-time faculty and non-faculty.

Q When you say non-faculty, what do you mean?

A As I mentioned, grants will frequently provide for research assistants. These may very well be students,

commonly it would be students or secretaries or lab or other technical assistants. Sometimes they provide for a full-time associate who is not on the university's tenurable lines, but he is a full-time research associate on that grant.

Q Now, all of these people that you just referred to, whether faculty or non-faculty, are employees of the university, are they not?

A Yes.

Q There is no question about that, is there?

A They are employees of the university in the sense that the university is paying them, they are on the university's payroll, they are working—their working conditions are governed by university patterns of employment, practices of [319] employment. They are university employees. Since the university pays social security for them and withholds their taxes for them.

Q Should one of these principal investigators simply abscond or not do any of the work for which the agency is paying, is the university responsible?

A The university would be fiscally responsible for funds misspent by the principal investigator.

The grant monitoring office has a copy of the contract, and when the principal investigator asks that funds be disbursed for such and such purpose an individual in the grant monitoring office refers to the contract to see whether the contract provides for such expenditures.

Q The grant is a contract between the granting agency and the university; is that correct?

A Yes.

Q And that grant contract is managed by the principal investigator; is that correct?

A Yes.

Q And his expenditures are monitored in the grant funding office?

A Yes.

Q Is it correct that the principal investigator selects the employees on the grant?

A Yes.

[320] Q Who assigns these employees to particular tasks?

A He does.

Q That would be so—

A Or someone he asks to do so does.

Q That would be so whether those employees are faculty or non-faculty; is that correct?

A Yes.

Q Who descides what the hours are to be scheduled for the work on the grant?

A Within university practice he does. The university is closed on certain days, the grant then is closed on those days.

Q Does the principal investigator have authority to reprimand employees on the grant?

A He has the responsibility to reprimand.

Q Does he adjust their complaints and grievances?

A Yes.

Q Has he the authority to effectively recommend their determination?

A Yes.

Q Subject of course to the tenure provisions of the university?

A As far as their work on the grant, tenure provisions don't apply. It applies only to their work on the university payroll.

Q I am talking now about full-time faculty.

[321] A Yes.

Q With respect to other than full-time faculty, does the principal investigator have the power to effectively recommend the termination of all employment at the university, total termination?

A Yes.

Q Does he have the power to authorize overtime for non-faculty employees?

A Yes.

Q Now, Dr. Fishman, in your experience, what percentage of time, time over the whole year, do principal investigators spend on research programs?

MR. SCHECTMAN: I will object to this question on the basis that it is a generality listed for 15, 20, maybe 30 names here who apparently have working with, or under them, anywhere from one to 20 or 25 people. Unless the question is more specific, I don't think it warrants any answer.

HEARING OFFICER: Repeat the question.

(Question read.)

MR. KRAMER: The witness testified, Mr. Banks, that he has experience in this area, he himself has grants, he was the dean of the Ferkauf School for several years. The question is not in someone else's experience, but in his experience what percentage of time do they spend.

MR. SCHECTMAN: He is asking what percentage of time [322] Dr. Fishman spent?

MR. KRAMER: No.

HEARING OFFICER: He is saying a principal investigator.

MR. KRAMER: In his experience, what percentage of time have principal investigators that he has been acquainted with over the years spent in working on their projects.

HEARING OFFICER: Overruled. You may answer.

A It varies. Typically all of the summertime, and throughout the rest of the year. There are a large number who are on half time research support. And there are a number on less than half time.

Q Now, again in your experience, Dr. Fishman, both as a dean and as a principal investigator, and as an observer of people who are acting as principal investigators, what percentage of time spent on research projects by principal investigators is spent supervising research assistants and other non-faculty personnel?

A It varies, it varies with the number of such staff on the project. It will therefore vary from project to project. It varies within the project for different stages of the project. Usually a lot more supervision is required initially, and sometimes a lot is required at the very end.

Q Now, Dr. Fishman, what causes these variables?

A The size of the project, the extent to which the principal investigator is the only one who can do certain [323] things, and therefore has none that could be supervised, or the extent to which there are others who could do these things and have to be taught how to do them, have to be shown how to do them, have to be watched while they are doing them.

Since many of the project staff are students it is quite common that the principal investigator invests a lot of time in supervising them.

Q Would the rate of turnover on a project affect that?

A Yes, if staff has left and new staff comes, they then again have to be taught the ropes. That requires additional supervisory time.

Q And would the complexity of the project, roadblocks and pitfalls that may be encountered affect the variables?

A If there are unanticipated problems, someone who was working along smoothly is found not to be working effectively, or has come up with a problem that he himself hasn't been trained to handle, then the principal investigator has to step in.

Q Just so the record is clear, Dr. Fishman, is it your testimony that on some occasions principal investigators may spend more than half their time on their research projects, and on other occasions less than half their time?

A Yes.

Q Is it your testimony that on certain occasions principal investigators, certain projects, not occasions, principal [324] investigators may spend more than half their time supervising and on other projects they may not?

A At times, yes.

Q Either times or projects?

A Yes.

Q Is it very difficult, to quanity this thing?

A Yes, it is difficult.

Q But nevertheless you are sure, I take it, Dr. Fishman, that these principal investigators do supervise the non-faculty employees on their grants?

A By supervision you mean the various things that you have asked me before, those are the things that they definitely do.

Q And they also, do they not, have a managerial responsibility to see that the grant operates within the funding limits established by them?

A They have to watch how the money is being spent to see whether they are coming to the end of the money faster than they had thought, and to speed people up if that is the only way of finishing it on time.

Q That money is being spent either on equipment or salaries of employees of the university; is that correct?

A Supplies, yes.

Q Is there any question in your mind that the people who work on these grants are university employees?

A They are all university employees.

[325] HEARING OFFICER: In the event that it is discovered that the funds originally allocated are not going to be sufficient to complete it, who will be responsible for trying to obtain additional funds?

THE WITNESS: The principal investigator normally is the one who discovers that, and he is the one who undertakes to convince the granting agency that it is worth their making an additional investment, an additional allocation so he can complete it. He will communicate with them usually informally about this to see whether there is some change that they will agree. If he gets any informal encouragement he will then normally apply to them so that they will do that.

HEARING OFFICER: Now, anything which developed from this investigation, who would get the benefit of it, would it be the organization that supplied the funds, the university, or both?

THE WITNESS: That is somewhat technical, I am not sure of the exact answer to that.

In most cases the product is a book or a publication, and therefore it is difficult to attribute its benefit to any particular person.

Now, in some cases it is a patentable something or another, and there is a university policy governing patents and the university's rights to the patents, as well as the investigator's rights to the patents.

[326] HEARING OFFICER: That is all I have.

Q Is there a standard faculty research government?

A Yes.

Q That is found in the faculty handbook, is it not?

A Yes.

Q Which is Exhibit 51 in evidence?

A Yes.

Q Dr. Fishman, you told us that you have had several research grants?

A Yes.

Q Did you have a research grant in 1966 through 1968?

A Yes.

Q Will you tell us about that grant, and how you went about managing it?

A That was a rather large grant requiring a rather sizable staff, and therefore having indicated the various positions that I would try to fill if the grant were forthcoming when it was forthcoming I proceeded to hire a full-time professor at another university who was on leave of absence that year from his university, and therefore came as visiting professor to us, thanks to the fact that I had received this grant, and was also teaching at the university that year.

I also hired a full-time research associate who left, completely left his job at another university and came to work with me on this grant.

In addition to which he taught part-time at the university.

[327] I hired several student assistants, I really can't now remember whether it was eight or ten or twelve, quite a number. Several assistants who were students but not at the university, but who had recently completed their doctoral studies at other universities, were looking for employment while they were completing their dissertations.

I hired several technical assistants to assist in data collection.

I hired secretaries and typists.

I think that about covers the kinds of assistants.

Q Who provided this grant, Dr. Fishman?

A It was an office of the federal government. I believe it was called at the time the International Studies section.

Q The grant was given to whom?

A The grant was awarded to Yeshiva University for the purposes outlined in my application.

Q And the employees you hired were employees of Yeshiva University?

A Yes.

Q They weren't employees of Joshua Fishman, were they?

A No, I didn't pay them out of my pocket.

Q The university paid them, did they not?

A Yes.

Q Covered them with workmen's compensation?

A Yes.

[328] Q Social security?

A Yes.

Q They worked under the overall university policies; is that correct?

A Yes.

Q Dr. Fishman, approximately how much was this grant for?

A As near as I remember now, it was $150,000, or perhaps a little more, for two years.

Q You are presently vice president for academic affairs for the university. Were you president for academic affairs in 1966 through 1968?

A No.

Q What position did you hold at that time?

A Research professor in social sciences, university research professor.

Q Tell us what this project was about in lay terms.

A It was a study of a community in Jersey City, most of whose inhabitants were bi-lingual, speaking both English and Spanish. It was an attempt to describe bi-

lingualism in a community by the approaches and based on the theories of different disciplines. So that it required that a sociologist and an anthropologist, and a linguist, worked together studying the same people with different instruments, from different points of view, in order to determine whether the picture that resulted of individual bi-lingualism would be [329] different when approached from different theoretical prospectuses.

Q Did you direct this project?

A Yes.

Q Did you tell the people on it what they were supposed to do?

A Yes.

Q Then see to it that they did it?

A Yes.

Q There wasn't anybody over you to see that this was done, was there?

A No.

Q It was your responsibility to manage the project?

A Yes. But I remember an occasion when I wanted to make an expenditure on that project and the grant office notified me that that expenditure they couldn't find any authorization for that in the grant contract. Therefore I had to write to the granting agency in Washington to get their official approval for that kind of authorization. Otherwise—for that kind of expenditure. Otherwise the university would have felt that that might have been questioned upon review later and the university would have to make up that expenditure itself.

Q Did you manage to get the money?

A Yes. I got the authorization to spend the money that way.

[330] Q Did anybody tell you how to go about doing it?

A No, they just told me that I had to get authorization.

Q How you went about doing it was your affair?

A Yes.

Q All the time that you were managing this grant, Dr. Fishman, you were an employee of the university?

A Yes.

Q A full-time member of the faculty?
A Yes.
Q With tenure?
A Yes.
Q In the 1972 spring term did you have a grant?
A Yes, that was from '69 to '72.
Q Was that grant different from the grant that you just described to us?
A It was a different grant, yes.
Q Under this grant, however, did you also have authority to hire personnel and direct them?
A Yes.
Q And were they personnel who were employees of the university?
A Yes.
Q Do you currently have a grant? By currently I mean during the '73-74 academic year.
A Yes.
[331/449] Q Do you have the same authority under that grant?
A Yes.
Q Have you applied for a grant next year?
A Yes.
Q And will you have the same authority under that grant?
A That grant has been granted and I have that same authority for the next grant. In fact, I am looking for personnel now.
Q Would this be so whether you were a professor teaching or academic vice president administering?
A The authority with respect to the grant doesn't derive from my administrative position, it derives from my being a principal investigator in a grant.
Q That is a scholarly position, is it not?
A It is a research position as a result of having received a research grant.
Q Carries with it supervisory and managerial functions, does it not?
A Yes.

* * * *

[452] CROSS EXAMINATION

Q (By Mr. Schectman) Good morning, Doctor.
A Good morning.
Q I would like to begin cross examination with reference to the faculty handbook, which was Employer's Exhibit Number 51.
Who conceived the policies in the faculty handbook?
A Many of them go back quite a while. I would say all the university policies are a by-product of faculty and administration. They start at various places.
[453] Q Who has—
A The faculty committees sometimes, sometimes the administration committees, sometimes individuals have an idea that takes hold.
Q Is it not true, then, that committees at individual schools of the university can and will have some input in the formulation of the policy in the faculty handbook?
A Yes.
Q Who has the power to amend its positions, formula?
A The same procedure that results in the provisions themselves can result in the amendment of the provisions.
Again a committee or an individual provides the impetus to start discussing something which finally works its way up through schools, through executive council to the president.
Q And finally who will promulgate policy in the faculty handbook?
A The policy is always approved by the board and by the president and then promulgated.
Q I'm sorry, approved by whom?
The board and the president, you said?
A Yes.
Q Are there any other documents of the university [454] whose authority prevails over the faculty handbook when the policies are inconsistent?
A Did you say if policies are inconsistent?
Q Let me rephrase it.
Are there any other university documents whose authority would prevail over the faculty handbook relative to the policies contained therein?

A I don't think so. There are—possibly like the memo that I was discussing yesterday, there is a procedural memoranda as to how to go about doing the things in the faculty handbook.

But I don't believe there is any policy statements beyond the faculty handbook that takes precedence over the faculty handbook. It is for university policy.

* * * *

[502/514] Q Dr. Fishman, in your position and also with respect to your appearance as a former dean of a graduate school at Yeshiva University, do you have some knowledge as to the budgetary matters of the various schools of Yeshiva University?

A When I was dean, I had very detailed budgetary knowledge. But in my current work, I have very little budgetary responsibility or concern.

Q Will you, however, occasionally see the budget of one of the schools of the university?

A Yes, I will, or parts of it.

Q Pardon me?

Parts of it?

A Parts of it.

Q Particularly what parts of it might you see?

A No particular part, but on occasion some part will be mentioned at a meeting.

[515] Q Would part of it be the specific budgetary allotments for each school for faculty compensation?

A I will sometimes hear that a new faculty appointment can't be made because the budget for faculty has been allocated.

Q And that's allocated on a school by school basis?

A Not usually.

Q What do you mean, "not usually"?

A Because faculty members are so frequently teaching in various schools, and there are budgetary consequences of that.

Q Could you describe those consequences, and out of that example, you can tell me if it's a reasonable one?

Let's assume there is a professor with a home base appointment at the Belfer Graduate School who teaches

three courses or its equivalent at Belfer and teaches one course at Yeshiva College.

How would the budgetary configurations be based for that professor?

A That I don't know. There would be some budgetary allocation accordingly. Exactly what that is, I don't know.

Q Do you know who formulates all the budgets?

A I know how budgets get formulated.

Q Could you tell us?

[516] A There is always a prior budget. Let's start with, there is always a prior budget, so we don't have to start with a creation of the world.

Sometime in the fall the machinery for starting the new budget—I'm going back to my own experience by and large, because this year I haven't really gone through that round myself.

Q Please.

A The dean will be in touch with the budget officer of the university to determine the parameters for university support for the coming year.

He will therefore have to attend meetings with the fiscal officers and with other deans in order to get that worked out.

Q Is there—

MR. KRAMER: The witness hasn't completed his answer.

MR. SCHECTMAN: I'm sorry. Excuse me.

A (Continuing) This frequently also involves meeting with the budget committee other than—that is, the university budget committee.

Frequently the deans in concert feel that the additional funds are needed. Then the deans also, given the amount of money which is available, try to find ways of making appointments so that they can benefit from them, drawing strength to various schools rather than to any one.

[517] Q You mean by deans making appointments, deans, of course, recommending appointment to the president?

A Yes. First the deans have to have the appointments recommended to them. In other words, what the deans would like to come away from all these meetings

with is the news to faculty that there is going to be money for appointing someone in this area or in that area.

Q So, then, does it not require some consultation between the dean and members of his faculty?

A Yes.

Q In particularly what areas?

A In the programmatic areas that I represented, in the subject matter areas, in the degree program areas. I'm not sure I follow your question.

Q Generally, when you were at Ferkauf, and you finalized—would there be something called a budget proposal?

A After a long time, there would ultimately be something called a budget proposal.

Q What fiscal areas would be encompassed within that budget proposal?

A In a school such as Ferkauf, the huge proportion of the budget would be salaries, personnel salaries. That would include buildings and grounds people and the secretarial people, and so forth, and faculty.

Another huge proportion would be student aid that [518] would be charged to the school.

Now, any one of those lines would interlock with similar lines in other schools.

Q What other areas would be encompassed by the budget? You referred to generally two.

A There would be equipment. That would be a minor —that would mostly be the equipment that was budgeted under grants rather than central university equipment.

I don't know whether that's still the practice now. Equipment such as elevators, and so forth, were not on the school's own budget lines.

Supplies, there would be a supplies line.

Q Would there be a budgetary allotment for the library of an individual school, if that school had a library?

A As I remember at that time, the library was budgeted centrally, and there was no library line.

Q Do you know if that's the practice now?

A Well, my impression is that that is still the practice now, because I sit on the university library committee, and the library—the budgets of all the libraries are discussed and battled out and revised, and so forth, in that committee before the university librarian then goes to the fiscal officers.

Q Does that committee then consider your particular budgetary allotments for each of the libraries within [519] the school?

A It does that, but on the same basis as university faculty lines are concerned, it is librarians that are shifted from library to library and work at several libraries.

• • • •

[595] Q Dr. Fishman, the faculty handbook, page 8 designated four academic ranks, structure, assistant professor, associate professor and professor.

Are there written requirements for the promotion of the faculty members of Yeshiva University?

A There are, yes.

Q And with particular regard to which ranks?

A With regard to all ranks.

Q Is it within the power of each school of the university to establish guidelines for the normal expectancy with regard to length of service in particular academic ranks?

[596] A Yes.

Q And is it not true that at numerous schools of the university there are standing committees particularly addressed to the question of promotions?

A Yes, sir.

Q Is it not true that they deal with solely the issues of promotion of those faculty who work primarily or are based in the school at which the committee serves?

A Yes, sir.

Q Do you have knowledge whether any such committees are established by the constitution or by-laws of any of the individual schools?

A I don't have direct knowledge, but I assume that this would be covered, could well be covered by the by-laws of the particular faculty groups.

Q Now, on direct testimony you testified as to the definition of full time and you indicated that it was a certain number of course hours or its equivalency.

You also indicated on direct testimony that the definition of equivalency was distinct in the graduate schools and the undergraduate schools.

Could you amplify that?

MR. KRAMER: I must tell you that you are misstating—

Q Or if I am misstating the testimony, please indicate it and clarify the point.

[597] A There are a number of possible equivalent factors, that could be equivalent to number of hours that professor teaches, his research, his committee work, his dissertation guidance, his administrative responsibilities.

Q Will the equivalency factors be generally defined and applied on a school by school basis?

A Well, these factors that I mentioned, they are pretty much over all. They are the ones that are applied over all.

Q Would it be, however, the responsibility of a dean of an individual school to decide whether a faculty member in his school has met the full time requirement of course hours plus a certain equivalency?

A It wouldn't be his responsibility to determine what the equivalents should be. But that having been determined, he ought to check it out to be sure that faculty members that are full time are doing a full time load.

Q Who then makes the initial decision whether a faculty member has a full time load? Is it not the dean of the individual school?

A Yes. But he must have a policy for guidance so he knows whether he should decide this way or that way.

Q But the dean of the individual school then applies that policy to the individual cases?

[598] A Yes.

Q And accordingly, defines whether a faculty member is serving full time, according to the given policy?

A In essence, he indicates that he is, because if he isn't, the university requires that he be assigned to additional duties.

* * * *

[604] MR. SHECHTMAN: Let me now rephrase the question more precisely with reference to the prior testimony on page 517 of the transcript in this proceeding.

Q You testified, Dr. Fishman, that deans have the appointments recommended to them. Generally, how are those appointments recommended to them?

MR. KRAMER: I don't think that testimony is what is reflected in the record.

MR. SHECHTMAN: I will read the question and the answer.

MR. KRAMER: I withdraw my comment.

A The deans are in the pivotal position in connection with hiring. The programs with which they are in touch express needs for new faculty to them. The university administration lets them know about the budgetary possibilities. The deans therefore, together with each other and with the people in the programs try to translate those possibilities into what should be done.

Some of it could be used for full time faculty or for part time faculty or for other acquisitions.

At any rate, this kind of discussion goes back and forth and normally, depending on the size of a school, some schools are really so small that you would consider [605] them departments, and, therefore, the dean is in touch with the whole faculty and, therefore, he doesn't need anyone else to recommend this to him. But in a larger school it would be the chairman who mostly works with the dean and, therefore, the program faculty of that department or the various departments involved in the program that are communicating with their chairman, he communicates with the dean.

The dean is in touch with other deans.

In other words, it's a pooling of information which is fed to the dean and which is then fed to me and to Dr. Sokol and so forth, to the president.

Q So that when a dean is in the position, that pivotal position to make a recommendation of an appointment, is it not true—

A Not so much that he is pivotal for recommending. He is in the center of information that comes from various other sides, from the faculty and from other administration.

MR. SHECHTMAN: May I have this marked for identification Petitioners' Exhibit 3.

(Whereupon the document referred to was marked Petitioners' Exhibit No. 3 for identification.)

Q Dr. Fishman, on direct examination you testified that a new tenure policy was promulgated and distributed separately from the handbook as a whole.

[606] A A revision of the tenure policy was approved.

Q Yes. Are you familiar with this memorandum addressed to Academic Deans and Directors from Samuel Belkin, with—in handwriting, a notation "Approved, S. Belkin"?

A Yes.

Q I'm sorry?

A Yes.

Q Did this memorandum—was this a covering memorandum over the revised tenure statement as it was distributed?

A Yes.

MR. SHECHTMAN: I would like to have this marked in evidence as Petitioners' Exhibit 3.

MR. KRAMER: No objection.

HEARING OFFICER: Petitioners' Exhibit 3 is received in evidence.

(Petitioners' Exhibit No. 3 for identification was received in evidence.)

Q This memorandum voices president Belkin's pleasure that faculty welfare committees were involved in the development of this tenure statement.

Do you know what that means?

A Yes.

Q Could you tell us?

[607] A I wasn't there at the time. But I heard about it during this year that I have been at the university.

Several years ago the process of reviewing this tenure policy began. The review, as I understand it, was initiated at the recommendation of the executive council. And all of the welfare committees of the various schools were asked to participate by providing comments and suggestions for the revision of the current tenure policy, and also the executive council, or some subcommittee of it, also proposed recommendations for revising the then current tenure policy.

So that the various welfare committees reacted to the ones that were being suggested to them and made their own suggestions. The process then just continued in terms of continued discussions, until the executive council, having met with all the welfare committees or some representative of the executive council, having met with all the welfare committees or gotten all of their views, proposed a revision, which included many of the recommendations coming from different faculty welfare committees. The college, I know particularly, and Belfer and Wurzweiler had some feed in, and Ferkauf.

Q Are welfare committees standing committees at virtually each of the schools of the university?

A I can name the ones that I know of. Shall I do that?

[608] I know there is a welfare committee at Ferkauf. I know there is a welfare committee at Belfer and a welfare committee at Wurzweiler and a welfare committee at Stern and a welfare committee at the college. Those are the ones that I know of.

* * * *

[723] Q (By Mr. Schectman) I show you Petitioner's Exhibit 6, marked for identification. Are you familiar with these documents, Dr. Fishman?

A My real familiarity goes back to parts of this that I recognize from the time that I was dean. But I haven't seen it since.

MR. SCHECTMAN: We offer now into evidence Petitioner's Exhibit 6, including the handwritten notations on page five, Appendix A thereto.

MR. KRAMER: We would not quarrel with the first of those notations being offered in evidence. But the second which indicates a change, which nobody has, we would object to that notation going in unless the change is produced. Just a notation going in—

MR. SCHECTMAN: We will then except the notation from the admission.

MR. KRAMER: We have no objection to the document.

HEARING OFFICER: Petitioner's Exhibit 6 is received in evidence.

(The document previously marked P-6 was received in evidence.)

* * *

[730] Q Do you have any knowledge whether Belfer —the Belfer Graduate School has a constitution and bylaws?

A It's required to have so by the university faculty handbook. So I'm sure it does.

Q And that would be the same for Wurzweiler Graduate School?

A Yes.

Q And that would be the same for the Bernard Revel Graduate School?

A Yes., it's a university-wide policy that schools draw up in writing—

Q And that would be the same for the Erna Michael School?

A It might.

[731] Q And the James Striar School?

A It might have, yes.

Q And did I say Stern College?

A You didn't. But it should have.

Q And Teacher's Institute for Women?

A It should have.

Q I noted Yeshiva College has a committee on committees.

What is the function of that committee, do you know?

A Is that a college committee that you are referring to?

Q Yes, I am, the college committee.

Is there a university committee on committees?

A I think there is a university committe on committees. There may be a Yeshiva College committee on committees.

Q I see in these constitution and bylaws that have already been introduced in evidence that there is not only a listing of numerous standing committees in each school but there is also some reference to ad hoc committees.

Q Generally in what instances would an ad hoc committee be created and to act on what issues?

A An ad hoc committee would be one to which there is assigned a task that is limited and it will be over and done with within a short time. And therefore the committee is assigned that specific task, that specific problem. That's ad hoc.

Now, standing committee has an area assigned to it, a [732] program or a continuing concern assigned to it, and it continues to be in existence forever as long as that concern continues, merely to be available.

It will have busy seasons and it will have slack seasons. It will be busy when that concern is being stressed for whatever reason and then it will just be available. It might meet informally, and just knowing that it is available in case something comes up in that connection.

Q Cannot a standing committee create an ad hoc subcommittee?

A It could happen, sure.

Q Is it a fair inference that in the last academic year there were numerous ad hoc committees in effect or operative at most of the schools of the university?

A Yes, I would say that's a good assumption, although it's only the standing committees that have to be there.

Q I understand that. Than that would be the same on the university-wide basis as well, would it not, that

only the standing committees have to be there by either its charter or handbook?

A Yes. Well, the—

Q You answered the question.

MR. KRAMER: No, he didn't.

MR. SCHECTMAN: He answered the question yes.

THE WITNESS: Yes, but.

Q All right.

[733] A The handbook only calls for—the university faculty handbook calls for certain university commitments. It doesn't list all of the university committees that are standing committees.

Q You have a good deal of contact with the various deans in the various schools of the university, do you not?

A Yes, I do.

Q Could you summarize briefly the roles and responsibilities of the dean at one of the schools of Yeshiva University?

A Just that one particular school generally.

Q Let's say typical roles and responsibility of a dean.

A The dean is the chief liaison officer between the programatic activities of the school and other schools and the central university administration. It would be concerned with the academic programs and their needs in terms of faculty staffing, student aid. Those are I'd say his major concerns because all that information funnels from school to school and from school to administration centrally through him.

Q He also has some concern with the school's budget you testified before?

A Yes. Budgetarilly—

Q You need not—I think you testified before. I just wanted to—

A I said budgetarilly he doesn't have the same significant role as he would programatically.

[734] Q Now—

MR. KRAMER: Is the witness finished with his answer?

THE WITNESS: There are other things. He convenes the faculty meetings usually. He reports on the

school to the executive council whenever—he is usually also present or a member of the graduate council and undergraduate council, takes up school concerns that have a university-wide implication on those occasions. I could go on. There are other areas.

Q When a particular grievance arises from a faculty member over, let us say, his or her course scheduling or desire to take a two or three day leave or some other kind of routine matter affecting the employment, terms of employment of that individual, is it not generally the dean who attempts to resolve those?

A I wouldn't say that was generally the case, particularly in larger schools. Either the department chairman would be the person the faculty member would normally direct matters of that kind to.

Q But always subject to the approval or veto of the dean?

A That's normally the case. It may be that if there is an established pattern or practice for handling that kind of matter, then the chairman himself can arrange it with the faculty member.

Q But usually such established patterns of practice would be [735] approved by the dean or other university official?

A If it's changing the time that a class meets because he can't meet that week with his class because he is going to a conference, let's say, somewhere. I'm not sure that the dean needs to be concerned. I think probably the chairman, if it's a program in which there is a chairman, would try to clear that, assuming the faculty member cleared with his students and the students can all come, would clear that with the registrar's office to be sure that it was on record and to be sure there was a room available at that time, and so forth. They are matters which are so routine that they don't go to the dean. And then there are matters that are of greater concern that do.

Q If there is an issue on the point as to salary, would it be inappropriate for a faculty member to approach the chairman of the welfare committee or the welfare committee to inquire as to such a matter?

A We have a strange mode of life at our university where faculty members will promote the president directly when they are unhappy about their salary, or the vice-presidents. But I would say since the welfare committee is a standing committee that is concerned with school-wide, sometimes school-wide provisions for faculty welfare, that doesn't strike me as a good committee for a faculty member to go to if he has a salary grievance, although he might.

[736] Q Now, you testified that there is a committee entitled the university faculty review committee?

A Yes.

Q And they handle some grievances, and I believe over the last two academic years, you stated that there were three such grievances?

A I think there were—

MR. KRAMER: I think you misstated the record.

Q Excuse me. You said there were three faculty members who raised issues with that committee? Am I correct?

A I remember there were four over the last few years.

Q And what were the particular issues affecting those faculty members?

A If I remember correctly, the grievance committee—

Q Not the grievance committee. I'm referring to the university faculty review committee.

A Yes, that is the university grievance committee. The university review committee is the university review committee for faculty grievances. And it specifically is exempted from considering salary items.

So that to the best of my knowledge, all of its concerns have had to do with lack of promotion, not being recommended for promotion, not receiving promotion, or questions of tenure.

Q So then is it accurate to state that it's domain refers or is generally related to grievances relating to promotion [737] or tenure?

A Well, I think specifically it cannot handle fiscal grievances. It can handle any other grievances but traditionally handles tenure grievances and promotion grievances.

Q Do you have any personal knowledge of a prior occasion on which it has handled a grievance other than a promotional or tenure one?

A No, I don't.

* * * *

[751] Q (By Mr. Schectman) Dr. Fishman, when you were dean at the Ferkauf School, did you not undertake and enter into discussions with members and representatives of the faculty about the terms of their employment and their working conditions and possible improvements thereon?

[752] A I did.

Q And did you subsequently make—ever submit recommendations as to increases in salary, and other modifications of the terms of employment of faculty that served under you?

A I did.

Q I can't hear you.

A I made various recommendations in the welfare area.

Q Those recommendations were in part derived from discussions and/or meetings with representatives from the welfare committee?

A That I wouldn't say. That probably happened from time to time. But normally those discussions had nothing to do with individual faculty members.

Q Did you have such discussions with faculty members at any other part of the university while you were dean at Ferkauf?

A Yes.

Q And did you ever make any recommendations as to salary improvements or other improvements in working conditions of faculty members from other parts of the university who were not teaching at Ferkauf?

A Yes. We would frequently have to do that.

Q While you were dean at Ferkauf?

A Yes.

Q In what respect?

A All those recommendations at that time were handled by all [753] the deans collectively, just as the welfare committee for the university and executive council for the university had not yet come into being. And faculty welfare revisions that funneled up through the schools were then brought together from all the deans.

Q At those meetings you represented, did you not, particularly the interests of the faculty over whom you were dean, as well as your responsibilities to the university?

A I was the only one who could represent Ferkauf. But the unique character of those meetings was that all of the schools would be discussed there.

Q Do you know Dean Gelbart? Former Dean Gelbert of the Ferkauf Graduate School?

A Of the Belfer.

Q Belfer.

Dr. Fishman, after those meetings with faculty members of Ferkauf or representatives from the welfare committee, and then after apparent meetings with the deans from other schools, were the salary rates that may have been adjusted at Ferkauf adjusted to the same degree or to the same extent as those at every other part of the university?

MR. KRAMER: Mr. Hearing Officer, the witness testified that he was last dean of Ferkauf in 1966 and I stated for the record that we will have a vice-president of business affairs at the stand who is conversant with financial things that are [754] more recent and I would think more material.

I would object to the question about salary increases back in 1966.

MR. SCHECTMAN: History is an element here and we will show that in fact the history we are referring to is based—is indeed a long history and a continuing history.

HEARING OFFICER: The question has been raised as to whether this witness is the one who would have the information.

MR. SCHECTMAN: I'm asking when he was dean in 1966, and then I will bring out from other witnesses

what the conditions have been or how they have changed from 1966.

MR. KRAMER: Would you ask the reporter to read the question back, please, Mr. Hearing Officer.

HEARING OFFICER: All right.

(Question read by Mr. Vorsteg.)

MR. KRAMER: I'm going to withdraw my objection to the extent that the witness may know the answer to that.

HEARING OFFICER: All right.

A At that time the kinds of discussion that I remember were not with the committee of deans, co-professor so and so get an increase, but could faculty increases be approved for next year. The whole tenor of all those discussions certainly was that people of what could be judged to be similar competence and experience should be getting salaries that reflected that, regardless of where they were.

[755] MR. KRAMER: The witness is not finished, I don't think. Have you finished?

THE WITNESS: I don't know whether I'm addressing myself to the question.

There were no discussions of discrepancies between schools because it wasn't assumed that discrepancies were on that basis, but on the basis of whatever competences would be involved. In other words, that would get back to the individual and to the faculties and to the dean's judgments of an individual, as to what his salary would be.

The discussions there were about how to actually establish university procedures for obtaining faculty increases, should they be periodic? Should they be annual? Should they be based on competence or just on longevity?

* * * *

[757] Q (By Mr. Schectman) I refer back to your testimony regard the meetings you had with other deans, Dr. Fishman. You suggested or it was my understanding that it was suggested you dealt with certain overall issue.

Did you deal with or discuss per se individual salary adjustments that were made for the faculty at Ferkauf?

A At the general dean's meetings?

Q Yes.

A No.

Q Did you not have a certain designated pool of funds from which you were authorized to make certain merit adjustments?

A At that time I would get an approved sum to work within for all the schools needs, and then it would be allocated in discussion with the chairmen.

Q So it would be allocated then through the discussions you had with the chairmen of departments and other individuals?

A Yes.

Q And ultimately the final discretion being yours, of course subject to approval of higher university officials?

A Right, within the policy of decisions that the council of [758] deans had laid down.

* * * *

[791] Q Now, Dr. Fishman, with respect to principal investigators and the grants under which they operate, who is the named grantee generally for the grants on which principal investigators take part?

[792] A You mean to whom the money is given?

Q Yes.

A Well, it's normally given to the university.

Q And who is the named grantee generally?

A I ask you, does that mean to whom the money is named to be given?

Q Are you familiar with National Science Foundation grants?

A I've never had one myself. I must say so. But I get notices of grants that have been awarded. I get copies of the face sheet of them so I know the grant has been awarded. And normally it will name the university, principal investigator, the fiscal agent of the university who has signed for the application, and there is some variation in that connection. Which of those is the grantee I'm not sure.

Q Now, when an expense or bill is incurred in the course of a grant, who issues—

* * * *

[793] MR. SCHECTMAN: Let me make it more precise for the record.

Q (By Mr. Schectman) I mean now that when funds are granted and a check is drawn for the funds of a grant, in whose name will that check be drawn?

A Well, I've never seen any of those checks. I assume that no foundation or government agency is going to make out a check to a professor at the university. So they will probably make it [794] out either to the fiscal officer or to the university, because that's how the funds are going to be monitored.

MR. KRAMER: We would be prepared to stipulate with you that the funds in all normal circumstances—there may be some we don't know about—go from the granting agency to the university. How the check is drawn I don't know.

Q (By Mr. Schectman) Now, with respect to expenses and bills incurred in the course of a grant, who issues the money orders with checks for their payment?

A Who writes the check?

Q Yes, is it a university official other than the P.I. P.I. I am referring to the personal investigator.

A I would say with rare exception, it can be the P.I. I've heard of that being done. In fact, I know of that being done. But it would normally be the university fiscal officer, as those checks all are printed. They are all made ready in some central university office and they all get signed by university people.

Q When other persons are employed to work on a grant, is it not customary for the principal investigator to submit a requisition to his respective dean to place that person on the payroll?

A Yes, I think I testified that that's what I did, what is done, except I suspect on rare occasions where the principal investigator will send it directly to the fiscal officer himself. [795] I know some such instances when that has been done.

Q Is it not true that any persons employed on a grant other than faculty members are bound by university personnel, regulations and practices?

A Yes, that's generally so. There are outer limits within which they are bound.

Q Now, are there not some secretaries who take part, or whose pay is derived to some extent from grant funds?

A Yes.

Q And do they work and are there some secretaries that are represented by unions and whose wages are set by collective bargaining at universities?

A Yes.

Q Do principal investigators play any substantial role in that collective bargaining process?

A In which process?

Q In the collective bargaining for the salary and working conditions for those secretaries?

A Well, going by the negotiations that are currently on going for 1199, and what I've been told about past negotiations, there have been both faculty and student administration representatives in those negotiations.

Q Who is ultimately responsible for approving any kind of collective bargaining settlement?

A Ultimately the president and the Board of Trustees.

[796] Q And who will generally submit a recommendation to the president and/or the board of trustees?

A Well—

Q Would it be Mr. Sokol?

A I think he would. The university attorney would. There is also a labor council in the university. But there would initially be I suspect a recommendation to them from the committee that is involved.

Q Now, with respect to other persons who are employed in part or in whole in some aspect of a grant, do you have any knowledge of whether deductions are made from their compensations for a pension fund?

A I don't know whether they qualify for participation in the pension fund.

Q Are deductions made, however, for the pension fund?

A I don't know whether they qualify for participation in the pension fund.

Q Are deductions made, however, for the pension fund?

A Well, if they don't qualify for the pension fund, then there would be no deductions made for it.

Q Are you saying that with certainty?

A I don't know. I don't think that—well, I would say if they don't qualify for participation, I don't understand why deductions would be made for this purpose.

* * * *

[797] Q (By Mr. Schectman) With respect to Employer's Exhibit 62, [798] you submitted a listing of past, present or possible future principal investigators. It's a relatively extensive list, it appears.

Do you have personal knowledge of what per cent of the time these principal investigators in fact spend in that role on a case by case basis?

A No, I wouldn't know them case by case. It was mostly from my own experience, a few individuals I do know—

Q I would be interested only case by case—

A I would know some of these on a case by case basis.

Q About how many of them on a case by case basis?

A At the Ferkauf School I know—I have a definite impression I would say about most of them.

Q Can you tell me how many of them at Ferkauf College would spend more than 50 per cent of their time in that role?

A I think from time to time they might all have to.

Q No, I mean over let us say one academic year.

A Again, depending on what stage they were in, and that might be the academic year in which they were doing it. It's very hard to estimate this. I think I said that it was very hard to come to an average on things that vary so much.

Q You do make such estimates, however, or does not the dean of Ferkauf make such estimates in his definition of who is a full time faculty member?

A His estimates are normally the same as the official [799] designation in the grant application. Grant investigators just constantly discuss with each other and indicate how they have to be spending more time on it than the university is really getting money for it.

Q Is it not true that in a great majority of cases a significant, if not, let us say, their greater part of principal investigator's time—I mean again over the term of the grant let us say—would be spent in its research, analysis and writing?

A If it's that kind of grant, then in the research time involves the supervision of his research assistants or his research staff.

Q That's not what I'm asking. I'm asking in terms of actual research, in terms of the time the principal investigator spends himself, I mean with respect even to your grant. Is not the greater part of your time spent personally doing research, analysis and writing?

A Well, let's go back to the big grant that I was discussing before, roughly '66 to '68 that went on. My question is, how do you break out the time that I spend with research associates and the research assistants, deciding how to do, what to do, when to do. It makes me feel better to say that that's research. But actually it's the process of organizing people to get things done.

Q But I'm exactly asking you that, Dr. Fishman, to break out [800] the time. And I mean for you to tell me approximately of all the time you spend on a grant?

A Well, on that grant it was a huge amount of time. There was a huge staff and meeting with them to assign them to do this and that took a huge amount of time.

Q Was it more than half of the time?

A Yes, it was absolutely more than half of the time. In other words, the time I could sit alone and write something up, without having to supervise somebody doing something was actually too little of the time.

* * * *

[801] Q (By Mr. Schectman) Were there not occasions on which you sat with other people involved in the

project and discussed some of the intellectual issues involved or some of the practical problems involved?

A There was a stage when that goes on. Actually, I had that formulated myself pretty much before we began.

Q Do you know Professor Goldstein at Ferkauf College?

A Yes.

* * * *

[803] Q Now, when you had your grant, were you also teaching at the time?

A I was teaching at least a course each year. But it could have been a course each semester in one of those years.

Q Is it not generally true in terms of the equivalency factor your course would be deemed one-quarter of your work load and your work with the grant three-quarters?

[804] A There are other factors that count, dissertation supervision, committee work, especially administrative work.

Q That would come out of that three-quarters, would it not?

A That would come out of the total—out of which three-quarters?

Q In other words, I suggested that one-quarter of the definition of your work load would be designated toward your contact hours, your class room hours and the other three-quarters would be designated toward your grant and other activities, is that not true?

A If I was teaching one course, that's a quarter and therefore there are three-quarters left. So therefore everything else has to come out of those three-quarters, yes.

Q Is that correct?

A Yes.

* * * *

[805] Q (By Mr. Schectman) Is it not true, not withstanding what the application itself reads, that the university or the deans with respect to the schools make some determination with respect to the amount or time attributable to work on the grant for the definition of full time faculty?

A They normally have to take the definition of the grant.

Q So you in fact could find out what per cent of a faculty member's time was spent in the grant doing supposedly supervisory duties and other work by looking at the grant?

A That's not what I said. What I said was there was a certain specification in the grant as to how much of the full time of a professor should be on the grant. But in addition—in other words, it doesn't specify how much of his time should be in supervising. But in addition to that, professors work on their grants, have grant responsibilities that sometimes go beyond the amount of compensation that the university is getting for their grant work. And they complain about that. I know I did.

Q So then such a complaint would be directed toward the definition of full time status as it affected or work load you might have at the university, would it not?

[806] A Grant generate a lot more work than they recognize officially. And investigators are responsible for all of that even though they are not being credited for all of that in terms of adjustments in their work load.

Q Is it not true that part of a grant, with particular respect to teaching assistance and research fellows who may be associated with it, includes a didactic component?

A There are some grants which are not research grants but training grants.

Are you referring to them?

Q Well, to those and all type of grants. You may make a distinction if you like.

A Well, there are some grants that hey no—if it is a research grant, to my mind the research grants don't specifically have a didactic component, although students serving as assistants are learning something. But they are not getting usually credit for that academic—academic credit for that.

Q Now, a training grant, does it not have a serious didactic component?

A I wanted to say, training grants do.

Q At Belfer College, for instance, are not some of the students taking part or employed in a grant for the

purpose of completing a dissertation in their doctoral program?

A I'm sure if they can do that they would be delighted, and that some do complete a doctoral dissertation as a result of [807] having been an assistant on a grant. You know, the investigator's purpose and their purpose formally is to pursue the grant.

You know, some research will not work into any dissertations at all.

Q But some will, will they not?

A Some will. Some will years later.

Q Do any assistants ever receive an authorship on any of the grants?

* * * *

Q (By Mr. Schectman) You've published a book, have you not?

A Yes, at least one.

Q Were any of these books published as part of or as a product of a grant?

A I have at least two books which are the result of work that [808] began under a grant.

Q But the books were completed subsequent to the grant period?

A Yes, but much thereafter.

Q Was the book itself one of the purposes or stated purposes of the grant?

A In my own grants I had to indicate to the sponsoring agency what they would get upon my completion during the period that they were funding it. And in each case what I indicated was a final report. They would get a final report, how far had I gotten. And they provided funds so that that could also be typed up, because that was a special budget line, the typing up of that final report, as well as preparing a few hundred copies, like 200 copies of it, so that it could be sent to various people in the field whose comments I could then receive. So that subsequently, after the grant was over, this could be written up as a publication rather than as a report.

Q Did you prepare such a report in your last grant?

A Yes, those two I'm referring to, yes.

Q Approximately how long in pages were those reports?

A One of them I would say was—one of them must have been a thousand pages.

Q Did you write most of those pages?

A No. Actually I supervised the writing of most of those [809/850] pages by reading them in draft and discussing with the person how to change it. But they are all multiply authored. I heavily followed the procedure of having the assistants get credit, do writing and get credit for writing.

Q What is the distinction between that supervision and the supervision you might lend to someone in the preparation of his or her dissertation?

A It's a different—it's quite similar in some respects but it is a different aura about it.

Under the grant, that's my responsibility, and they rewrite it the way I say, ultimately, to get down to the clinch.

In dissertation there are other colleagues who are also on the committee and they may have different views, and the student has to juggle the various views. And therefore, I feel if another faculty member on a committee has a different view, in order not to put the student in a terrible bind, I work out a compromise with that other faculty member, so as not to hold him up on the dissertation.

In a chapter for a grant report, I don't have to compromise that way. I tell them, this is the way I want it done, this is the way I think it should be done.

* * * *

[854] Q Is it not then also true that on other grants, other grants likely to be smaller than the grant you testified to, that in those other cases a principle investigator might have spent more of this time proportionately than you did doing research?

A If there is no one else than himself, then of course that's so.

But you can have a grant with just one assistant and if you are working with him all the time, then you have a lot of time that you are supervising him.

Q Now, you testified that there were faculty from other universities working with you on your grant, is that not true?

A One faculty member from another university. Assistants came from other university, too.

Q You did get assistants from other universities?

A Came to me from other universities.

Q Was that assistance paid for?

A When they came to work on the grant, they were paid by Yeshiva University, but they had come from outside of Yeshiva University is what I meant to say.

Q Were they consultants with you?

A Different consultants on the grant?

Q Yes.

[855] A I also had friends for consultants.

Q And those consultants played what role?

A Once or twice a year I would go to see them or I would invite them to come look over everything that we were doing or some particular problem that they were competent at.

Sometimes I sent the staff up there to wherever they were, but more commonly they would come and spend a day or more listening to whatever the problem was and expressing an opinion.

MR. SCHECTMAN: No further questions of this witness.

Q (By Mr. Kramer) Dr. Fishman, you have told us that you had faculty from other universities on your research grant. What do you mean by that?

A Before they came to work on the grant, they would be working at some other university.

Now, one of these people was on leave of absence or on Sabbatical, I believe, from that other university and he came to work with me on the grant.

Q When he came to work—let's stay with him for a moment—when he came to work with you on the grant, did he spend all of this time working on that grant?

A In his case, he worked full-time on the grant and also taught at the school part-time as an additional [856] source of income.

Q And for his work on the grant, did he receive payment from the university?

A Yes.

Q In the form of salary?

A Yes.

Q Did you select this employee?

A Oh, yes.

Q Did you direct his work?

A I did.

Q If he wanted time was it within your authority to give it to him?

A It was. I would have to consider whether we could get the work done or not if he took his time off.

Q But he would come to you for those kind of requests, would he not?

A Yes.

Q You told us with about one of these people from outside the university who came to work for the university. Was there another one?

A There was another man who actually left his job at another university in order to come to work on this grant with me.

Q And did he work full-time on the grant?

A He did, and he also taught at the university [857] again part-time.

Q And for work on the grant, was he paid by the university?

A That was his full-time work and he was paid by the university.

Q A salary?

A Yes.

Q Who had authority to direct the work of this person?

A Just I.

Q Was there anyone else?

A Not as far as his full-time work was concerned.

Q You selected him, Dr. Fishman?

A Yes.

Q Did you do the interviewing?

A Yes.

* * * *

Q You have told us that the faculty and students have representatives on the university negotiating committee in its negotiations with Local 1199.

Do those representatives include both graduate and under-graduate faculty?

A That was the case last time. I'm not as sure about it this time. I know I've been told about it last time. I haven't inquired this time.

[858] Q Dr. Socol is involved in those negotiations?

A Yes, and I know that they are—I know this that would be the desirable—during the summer university whether he is able to get the people in that would like to participate in this, but that would be the way it would normally be done.

* * * *

Q You told us on cross that persons employed on grants other than faculty are bound by the university's regulations and personnel practices.

That was your testimony almost verbatim.

Who enforces those personnel practices and regulations in the first instance, if anyone?

A The principle investigator is expected to let the staff know that those are the practices. If he attempts to engage in practices which are not university ones, then other authorities will inform him that that is the case.

Q Mr. Schectman asked you, Dr. Fishman, whether the principle investigator sends a requisition for personnel to his dean, and you said yes.

Are those requisitions generally approved by the deans in question?

[859] A They are actually called payroll memorandum if it has to do with staff, and the dean knowing that the funds are there from the granting agency is just a transmittal for the form to the fiscal offices.

* * * *

[863] Q Dr. Fishman, during the past three academic years at Yeshiva, have promotions from one rank to another been accompanied by salary increases?

A Sometimes they have and sometimes they haven't.

Q Dr. Fishman, you have told us that there have been tenure and promotions grievances before the faculty review committee and that fiscal matters are excluded.

What other matters, if you can give us some examples, are within the province of the faculty review committee?

* * * *

[864] A I believe I did say, and I do believe, that they are mostly matters of lack of promotion, non-tenure.

Any other non-fiscal complaints that faculty members might have could be brought to that committee; if he hasn't been reappointed and he feels he should have been reappointed, hadn't been treated fairly or [865] respectfully or essentially anything else.

Any other topic could still be brought there.

I know of some dismissal cases, not in the last three years, but generally I know of some dismissal cases that were brought there.

Q Dr. Fishman, does Stern College for Women have a governance document?

A Yes, it does.

Q Do you know whether that's called a constitution or by-laws or whether it is called statutes?

A I don't remember what it is called.

Q But it does have such a document?

A Yes.

Q Does Yeshiva College have such a document?

A Yes, it has for each of those governing bodies that were mentioned.

Q Do you know of as a fact whether Erna Michael College has such a governance document?

A It should.

Q You don't know of your own knowledge, do you?

A No.

MR. SCHECTMAN: Your Honor, this witness was asked the same question under cross examination.

MR. KRAMER: Yes, the witness—by the way, the witness answered with respect to Erna Michael College, I [866] thing, that there is such an constitution and by-laws, I call it governance document, and this answer on redirect is designed to clarify the record that of his knowledge he is not positive that there is one, that's why the question is being asked.

Q With respect to the Striar School, do you know of your own knowledge whether there is a governance document, whether it is called constitution or by-laws or statutes?

A I haven't seen it. I don't know that there is one.

Q With respect to the Revel School, which is a graduate school, do you know whether there is such a document?

A I believe there is something for the Revel School because I've heard that they refer to the faculty as a whole having a set of provisions.

Q And finally, for Teachers Institute for Women, do you know whether there is such a set of provisions, statutes?

A I don't know, although they have a faculty government apparatus, at least the director consults with the faculty, and when I talk to him he says that he has to consult with the faculty about this.

It is a small operation, therefore, it is hard to be sure whether that's faculty government or just [867] school operation that's involved.

Q Putting aside, then, Erna Michael College and Teachers Institute for Women, would it be correct to state, Dr. Fishman, that all of the colleges in the university, whether graduate or under-graduate, have a goverance mechanism and governance procedures?

A The ones I'm unsure about are Striar and Erna Michael and Teachers Institute for Women.

Harry Fischel I don't think needs to be considered. That's just a summer session of Bernard Revel.

And for all the others, I know there is a statute, a by-laws, constitution.

I don't know what they are called.

And the only one I have a slight doubt about is Bernard Revel.

Q Is it a fact, Dr. Fishman, that there is a welfare committee or concomitant thereof at each of the schools, whether graduate or undergraduate?

A There may not be an official welfare committee in a school like—in a small school where the whole faculty sits as a committee of the whole to consider whatever business comes up, then there would also be the welfare committee as a committee of the whole.

Q Putting that aside, do each of the other schools have a welfare committee?

[868] A Larger schools,—all of the larger schools do.

Q Stern College for one?

A Yes.

Q Yeshiva College?

A Yes.

Q Belfer?

A Yes.

Q Ferkauf?

A Yes. Wurzweiler.

Q And that's so whether they are graduate schools or undergraduate schools, is that right?

A Yes.

* * * *

[869] Q Dr. Fishman, you told us on cross that there is a—there are three categories for applications to the various BA-MA programs at the university, a preliminary stage, a pending stage, and a final stage, whereupon the applicant is either admitted or rejected.

Who reviews the application for admission to the BA-MA programs?

A There is for each of those programs an operational [870] sub-committee of the committee that planned them, and their purpose now that the programs have been planned is to screen the applications and to decide when the application can be accepted or whether it can be accepted.

Q When you say an operational sub-committee, what do you mean, Dr. Fishman?

A One or two of those people that were on the planning committee which remains as a standing committee for responsibility for the program as it develops, commonly I would say one from the undergraduate school is involved and one person from the graduate school is involved who will actually be involved in going through the records of the applicants when they are sent to them by the registrar's office.

Q I think there is testimony on cross that there are admission committees in, I believe, Belfer and Ferkauf.

Are there also admission committees in each of the undergraduate schools, to the best of your knowledge?

A I believe there are. I know for sure for the college, because I've had some spill-over from their admissions committee this past week.

But there must be one for Stern, too.

Q You told us, Dr. Fishman, at the outset of your cross, that the faculty committees at the schools have an in-put, that was your word, re: or about the hand-book, [871] the university hand-book, which is Employer's Exhibit 51 in evidence.

Would you tell us, to the best of your recollection, what kind of in-put you are talking about?

A I think this came up in connection with the revision of the tenure policy and there I know that the welfare committee at the various schools were asked to make comments, had sent in comments to the university committee, the university welfare committee that was going to draft the final version of the revised tenure policy.

Q That's from each school whether it was a graduate school or an undergraduate school, is that correct?

A Yes.

Q Is that also so with respect to the development of the hand-book in the mid '60's?

A In the mid '60's that was true, but there was also an accumulation of prior policy that just had to be brought together, for new policies, for study of policies, that was true.

Q Following the in-put you have just described, what body or bodies or official or officials made the determination about what would go into the faculty hand-book?

A The final determination was made by what was called the dean's committee, which later became the [872] executive committee, then on to the president, board of trustees.

Q Did they play an active role in that, Dr. Fishman?

A The latter, the dean's committee and the executive council, yes.

* * * *

REDIRECT EXAMINATION

[885] Q With reference to your testimony on redirect, you stated that other---that faculty members from other schools worked under you on your grant, did you not?

A Coming from other schools.

Q And that was it, in both cases that they taught courses at the university?

A Yes, in addition to the grant work.

Q Now, with respect to their teaching obligations, were they not primarily responsible to the dean of the individual school where they were teaching?

[886] A That's right.

Q And so in fact you did not have control over them as to their teaching obligation?

A Their teaching obligations were not under the grant.

Q So that in fact their supervisor in terms of their teaching responsibilities would have been the dean, am I correct?

A The dean, the chairman, the program director.

* * * *

[897] SHELDON SOCOL, having first been duly sworn by the Hearing Officer, testified as follows:

DIRECT EXAMINATION

Q (By Mr. Kramer) What is your full name and address?

A Sheldon Socol, 136-18 71st Road, Flushing, New York, 11367.

Q By whom are you employed?

A Yeshiva University.

Q How long have you worked for Yeshiva University?

A 1958.

Q What is your position?

A Vice president of business affairs and secretary of the University.

Q How long have you held that position?

A Approximately two and a half years.

Q What did you do for the University before that?

A From '58 to about '60, I was assistant bursar. From '60 to about '68 I was associate bursar—from '60 to '68 I was director of student finances. From about 1971 I was secretary of the University and then vice president for business affairs.

Q Dr. Socol, what are your responsibilities as vice president for business affairs?

[898] A They are manifold but basically I would say they relate to general administration and planning, fiscal and business management, personnel matters and general responsibility for such departments as physical plant, auxiliary services and security and safety, etc.

Q Let's deal with physical plant, sport and auxiliary services for a moment, Doctor.

Is buildings and grounds within the definition of what you gave us?

A Yes.

Q Is there a single buildings and grounds department for the entire University?

A Yes.

Q And its director reports to you?

A That's right.

Q Is security within the term "physical sport" and auxiliary services?

A Yes.

Q Is there a single security department for the entire University?

A Yes.

Q And does its director report to you?

A Yes.

Q Is data processing one that classification?

A Yes.

[899] Q Is there a single department for the entire University?

A Yes.

Q And does that department head report to you?
A Yes.
Q Would accounting and payroll fall within the definition, physical sport and auxiliary services?
A Yes.
Q Is there a single accounting department for the entire University?
A Yes.
Q And a single payroll department for the entire University?
A Yes.
Q And the heads of those two departments report to you?
A Yes.
Q Is there a single fund raising department for the entire University?
A Yes.
Q And does the head of that department report to you?
A He doesn't report directly to me.
Q To whom does he report directly?
A The president.
Q Is there a single registrar's function for the University?
[900] A Yes.
Q And a single alumni office?
A Yes.
Q And a single admissions office?
A Yes.
Q And a single student services office?
A Yes.
Q By office I mean function or department.
Is there one food service department for the university?
A Yes.
Q And does the head of that department report to you?
A Yes.
Q Is there a single mail department for the entire University?
A Yes.

Q And does the head of that department report to you?
A Yes.
Q Is there a single telephone switchboard for the entire University, I'm putting aside the medical school.
A Understood. In essence, there are two, one services the entire main center, the second services the—both the midtown and the graduate center.
Q Where is the Stern College—where are the Stern College phone services?
[901] A The graduate school.
Q And the Stern College is an undergraduate school, is it not?
A Yes.
Q In addition to being charged with the control of physical plant, sport and auxiliary services, you are also involved with general administration and planning?
A That's right.
Q Would you tell us what that function involves?
A That means working with the deans, the other vice president, senior vice president and executives of the institution with respect to operational requirements, short and long term planning, fiscal requirements, organizational and structure of the institution.
Q You also told us that one of your functions is business and financial planning, what does that involve, Dr. Socol?
A That involves not only the maintenance of fiscal records with regard to expenditures and liabilities of the University but also making certain that income due the University is timely received, recorded and accounted for. Disbursements that are due, are properly recorded and made in a proper manner and that assets of the institution are properly protected.
Q You told us that you are involved with personnel, [902] what does that mean?
A It would be helpful to characterize the personnel within the university as two kinds, faculty and other than faculty.
Q Would you tell us about your function with respect to personnel, other than faculty?

A Other than faculty, it is my basic responsibility to make certain that the salary and wages are in conformity with either contractual agreements that we have, that working conditions are being properly adhered to. That grievances when they arise are properly resolved.

Our relationship with members of the staff protect both the interests of the employees and the interests of the institution.

Q Would you tell us about your role, in a general fashion, with respect to faculty personnel?

A My involvement with faculty personnel is of a different nature. Primarily my involvement relates to the staffing of individual schools with regard to the fiscal consequences of appointments and the expanding or contracting the number or the level of the faculty involved.

Q Do you sit on many administrative committees?

A Yes.

Q Do you sit on certain faculty committees?

[903] A Yes.

Q Could you just tell us, I know it is a long list but give us a feel for the kinds of committees that you serve on at the University?

A Well, I serve on the Committee of Ceremonial Occasions which takes care of the University's ceremonies.

I'm on the Academic Computer Committee which is other than the administrative computer. It is the computer physically housed at the College of Medicine used by the University for research and for scientific purposes.

I'm on both the undergraduate as well as the graduate council.

I'm on the Yeshiva College Senate.

There are many, many other committees.

Q Now, Doctor, are you also chairman of a joint committee of the graduate and undergraduate councils?

A Yes.

Q Would you tell us about that?

A I don't recall the precise date but I believe it was in the first week of June of 1974 that at a meeting of the graduate council which is composed of graduate faculty, graduate students as well as member of the administration, it was suggested by a member of the faculty of one

of the graduate schools that it would be helpful to them and indeed to the institution if the graduate [904] council as a committee of the whole, would undertake to review academic priorities within the institution and the allocation of resources in accordance with those priorities.

It was further suggested at that meeting that this could not be done in a meaningful sense by the graduate council alone and it would be helpful and expected that the undergraduate council join them as a part of the committee as a whole.

I was asked to serve as chairman of this joint committee.

* * * *

Q Dr. Socol, I show you Employer's Exhibit Number 78 marked for identification, it is what apears to be a letter on Yeshiva University stationery, vice president for business affairs office, indicated July 18, 1974 and it appears to be sent out under your signature, even though your signature does not appear there.

Was this letter in fact sent?

A Yes.

Q And under your signature?

A Correct.

Q To whom was the letter sent?

[905] A To all members of the undergraduate and graduate council.

Q Why was this letter sent out?

A The letter explains that this is in response to a discussion that took place at the graduate council meeting of June 3 and the further conversations that I had had as chairman of this new committee with Rabbi Gross who is chairman of the undergraduate council and at the request of the graduate faculty that we use the opportunity of the summer to begin work of the committee, I called a meeting for August 12.

* * * *

Q Now, Doctor, in addition to being on all the committees that you have just described, are you also a member of the University budget committee?

A Yes.

Q Do you play a role in budgeting?
A Of course.
Q Would you describe that role?
A Well, the role is actually two-fold and it overlaps. [906] I have been a member of the University budget committee since it was established, before I became vice president for business affairs and I worked with Dean Rabinowitz who was chairman of that committee since 1971 in regard to formulating budgets for the various components, component parts of the institution and for the institution as a whole.
Q Was a budget committee appointed?
A Yes, by the president.
Q Who is on that committee?
A Dean Rabinowitz is the chairman, I'm on the committee, Professor Silverman is on the committee.
Q Dean Rabinowitz is dean of which school?
A Erna Michael College.
Q Is that an under-graduate school?
A Yes.
Q And Professor Silverman, what is his function in the University?
A University registrar.
Q For all the schools; is that correct?
A Yes.
Q This committee is appointed by the president?
A That's right.
Q Would you tell us what the purpose of the committee is, what it does.
[907] A The purpose of the committee is to provide for a vehicle to assure fiscal stability and viability of the institution.
Q When was it first created, Dr. Socol?
A It was created either in late '70 or early '71.
Q In response to particular events or circumstances?
A Yes.
Q Would you tell us about those, please?
A The university's fiscal year which ended at 6/30, 1970 indicated a significant deficit and the fiscal crisis which developed at that time forced the institution to take several steps to counteract that crisis, and one of those

steps was the establishment of a Universitywide budget committee to make better utilization of existing resources and to make certain that our income and our resources and our expenditures were more consistent with each other.
Q Was a committee on integration and coordination created at that time?
A Yes. One of the things that was established was a committee of integration programs.
Q What was the role of that committee?
A To evaluate the course offerings in essence and the faculty strengths in the various schools to see in what degree—to what degree we were duplicating our [908] efforts and to see how we could strengthen our academic efforts.
Q Did that committee function?
A To the best of my knowledge it did.
Q Was there also a committee set up at that time on class size?
A Yes.
Q Will you tell us what the role of that committee was?
A The role of that committee was to establish guidelines for the various schools of the institution so that there would be known, predetermined parameter in the area of enrollment before a course was offered.
Q You made reference to a committee on coordinated and integration and a committee on class size.
Will you tell us from whence the membership of those committees were drawn?
A From faculty and administration. Certainly it may even have included students, I don't recall.
Q From all the schools?
A Yes.
Q Graduate and under-graduate alike?
A Yes.
Q Let's return to the budget committee, Dr. Socol. How does the budget committee go about accomplishing [909] its purpose?

A Its first approach is to acquaint and inform members of the University committee of the factual basis of the fiscal position of the institution.

At the same time, by meeting with various groups in the institution, the committee is informed of the programs, activities, desires of the various groups within the institution.

And through serious discussion and cooperative approach, we've been able to indeed accomplish a reduction in the deficit.

Q I think Dr. Fishman when he was on the stand testified in words or substance that budgeting is an ongoing process, was that a correct statement?

A That's correct.

Q Would you explain what that means?

A Budgeting begins with where we have been, so there is a frame of reference of what our expenditures were last year and the year before, what we have been able to do in terms of activities with those dollars.

We try to translate those dollars into a pattern of the future. A budget is a fiscal blueprint in terms of what activities the institution has and what it would cost to continue those activities, to reduce or to expand them.

[910] Q Is the term "cost center" used at the University?

A Yes.

Q Used in connection with budgeting?

A Yes.

Q Is the term center or cost center used at the Uni-' versity?

A Yes.

Q Will you define those terms for us as used at the University?

A For many reasons, fiscal data is a management tool and we monitor data both in terms of income and expenditure under a cluster of programs or projects or activity.

Sometimes it may be a group as large as a school or a group as small as a particular project. This depends upon the level and activity on which we want to monitor the expense.

Q How many cost center do you have, approximately?

A We deal with approximately seventy significant or major cost centers.

Q Would you give us some examples of major cost centers?

A Department of buildings and grounds, department of food services, the Belfer School, Yeshiva College is a major cost center.

[911] Q I used the term cost sub-center, will you tell us what that term means?

A A cost center would be a refinement of a major cost center.

For example, the department of physics would be a sub-cost center within the Belfer School.

Q Does the budget committee meet with the administrative officer of each of the major cost centers?

A Indeed we meet possibly more frequently or less frequently based upon the nature of the activity, but we meet with every department head.

Q The dean or a dean would be an administrative head of a cost center that would be a school?

A Yes.

Q And a department head would be the head of a cost center that was a department; is that correct?

A Yes.

Q Now, is the budget or a draft budget prepared for each of the major cost centers?

A Yes.

Q By whom, Dr. Socol?

A It is prepared by the chief administrator being the director of that cost center.

Q After consultation with the budget committee?

A After consultation with the budget committee and [912] in compliance with University-wide budget guidelines.

Q Now, to whom is the draft budget submitted?

A The draft budget is submitted to my office where it is reviewed by myself and chairman of the budget committee and from there it is submitted with our recommendations to the president.

Q Is there usually agreement between the budget committee, your office and the administrative officer who submits the budget?

A Generally the budgets when they are finally submitted are a reflection of the general consensus that was reached.

Q When there is disagreement, how is disagreement resolved?

A At a joint meeting with the budget committee, the president and the chief administrator of the cost center involved.

Q Is that so whether the cost center is a graduate or an under-graduate school?

A Yes.

Q Whether the cost center is a department or a school?

A Correct.

Q Now, Dr. Socol, is the rather large degree of consensus that you have just described furthered by the existence of University-wide budget guidelines?

[913] A Yes.

Q Would you explain to us how these guidelines come about?

A Periodically, either myself as vice president for business affairs or dean Rabinowitz as chairman of the budget committee or jointly, we raise for consideration by the executive council, a series of budget guidelines to be used which, after discussion, and perhaps modification, are then submitted to the president for his approval.

Q Once those budget guidelines are approved by the president, are they disseminated?

A Yes, they are reduced to what in the past has been a letter from myself to the individual dean or director or major administrator, informing him of the budget guideline.

Q This executive council you referred to, that contains representatives of both the graduate and undergraduate schools?

A That's correct.

Q There isn't a separate executive council for graduate or undergraduate schools, are there?

A No.

Q There aren't separate guidelines for graduate and undergraduate schools, are there?

[914] A No, the guidelines are university-wide.

MR. KRAMER: 79.

(Employer's Exhibit 79 marked for identification.)

Q Dr. Socol, you have told us that the budget guidelines are disseminated over your signature; is that correct?

A Yes.

Q University-wide dissemination; correct?

A Yes.

Q Who gets copies of these guidelines?

A Every dean, director, major administrator who is responsible for a cost center.

Q Dr. Socol, I show you Employer's Exhibit marked 79 for identification, apparently again on the letterhead of Yeshiva University, vice president for business affairs, it appears to be a letter to "Dear Colleague" under date of August 15, 1973, signed by you; are you familiar with this letter, Doctor?

A Yes.

Q Did you actually send this letter?

A Yes.

Q Would you tell us what it represents?

A This letter represents the notification to deans, directors and administrators providing them with budget [915] guidelines for the fiscal year ending 6/30/74 and other related fiscal data.

Q Let's turn to page 2 of this exhibit and more particularly to paragraph numbered one on that page.

This paragraph states: "The University freeze on the hiring of new non-academic personnel will remain in effect during 1973/74.

This freeze—"

MR. SCHECTMAN: I object to him reading the exhibit into the record. The exhibit is before the witness

and has been marked for identification and speaks for itself.

MR. KRAMER: Normally, Mr. Hearing Officer, I would withdraw the question at this point. I'm going to ask a series of questions about this exhibit. It is a rather lengthy exhibit, it has several numbered paragraphs that I'm going to deal with in series and I thought it would be easier for the reader of the record, rather than to refer to the naked document, that we could have the text of the document in the record so we won't have to go back and refer to it each time.

I would like to continue this way.

MR. SCHECTMAN: I think the paragraphs are numbered, the pages are numbered, reference can be made to them and to their substance without going into the unnecessary [916] delay and the cluttering of the record of reading a four-page exhibit into it.

MR. KRAMER: I'm going to read the four-page exhibit into it.

THE HEARING OFFICER: I assume he wouldn't be reading it in detail.

I'll overrule the objection.

You may proceed.

MR. KRAMER: "The University freeze on new non-academic personnel will remain in effect during 1973/74. This freeze includes the hiring of replacement personnel as well as personnel for proposed new positions.

A freeze on overtime also remains in effect. In extenuating circumstances, requests for a variance to these policies can be submitted to this office."

Q Are you familiar with that paragraph, Doctor?

A Yes.

Q You actually wrote that, did you not?

A In essence, yes.

Q Will you tell us what the general essence on the freeze on the hiring on new non-academic personnel was?

A That occurred when the fiscal crisis in 1971 became apparent and the president, chairman of the board and vice chairman of the board convened a meeting of the executive council where the fiscal problems of the [917] University were discussed.

One of the first directives in regard to the fiscal crisis was the freeze on hiring the new non-academic personnel.

Q Did this freeze apply to all of the schools of the University?

A Yes.

Q Graduate and under-graduate?

A Certainly.

Q The paragraph tells us that a freeze on overtime also remains in effect. When did this freeze start?

A The same time.

Q Was it also University-wide?

A Yes.

Q It applies to both graduate and under-graduate schools; correct?

A Yes.

Q The variance referred to in the last sentence is obtained from your office; is that correct?

A Yes.

Q Is that so for graduate and under-graduate schools?

A That's correct.

Q No difference between Belfer and Yeshiva College?

A No difference.

Q Let's turn to the second paragraph on page two, [918] Doctor, a paragraph which states "Budgets for 1973/74 cannot exceed the approved or actually 1972/1973—"

MR. SCHECTMAN: I object again. Counsel for the University is reading these paragraphs verbatim. The first paragraph could have been alluded to by reference. The examination was merely as to the overtime and hiring freeze. He is insisting upon reading this document into the record and I'll renew the objection at this time.

MR. KRAMER: I'm not going to read the entire document into the record. These are short paragraphs.

THE HEARING OFFICER: All right.

Q "Budgets for 1973/74 cannot exceed the approved or actually 72/73 expenditure level, whichever are less.

This means that all inflationary costs and salary adjustments must be absorbed within existing funding levels."

Doctor, are you familiar with paragraph two of the letter?

A Yes.

Q The first sentence of that paragraph applies to both graduate and under-graduate schools?

A Yes.

Q Ferkauf, Stern, Belfer and Yeshiva and all the other schools?

A Yes.

[919] Q There is a reference to existing funding levels in this paragraph, what does that sentence mean to us in lay terms?

A That relates to the prior level of University funds allocated to a given school, program or project.

Q Now, Doctor, the third paragraph of this letter and out of deference to my brother, I won't read it, it is a long paragraph, I'll read one sentence: "Salary increases must be absorbed within existing funding levels."

What does that mean?

A That's a mandate to the dean, director or administrator that he must operate his school program in such a manner that sufficient dollars are available to cover mandated increases for members of staffs for that school or program and for other increases which may be necessary.

Q In other words, additional funds would not be provided from University sources to take care of those matters; is that correct?

A Yes.

Q Is that so for all of the schools, graduate or undergraduate, it makes no difference?

A That's correct.

Q Let's turn to paragraph 4, it is a short paragraph [920] and it states "Without specific approval, salary charges for personnel in a school or department cannot be transferred from sponsored research or grant funds to university funds,"

Are you familiar with that paragraph?

A Yes.

Q What does that mean in lay terms, to people who are not university administrators?

A At times, personnel who have been funded through a sponsored project or grant, find themselves in a position where either the grant is not renewed or renewed at a different funding level and their source of funding is no longer available.

This sentence or paragraph means that they cannot be transferred to the funding source of the University funds without specific approval.

Q Is that so no matter where the research is performed?

A That's correct.

Q Whether it is performed at Stern, Yeshiva—

A That's correct.

Q Let's turn to the fifth paragraph, it is a long paragraph and I'll read the entire paragraph.

MR. SCHECTMAN: I renew the objection at this time. I ask the Hearing Officer to read the paragraph make a ruling as to whether it is necessary to read it.

[921] MR. KRAMER: At counsel's objection, I'll not read the entire paragraph into the record, simply the first sentence and I'll ask some questions.

I would hope when cross examination comes, the same rule is followed with respect to this paragraph. Otherwise I would read the whole thing in.

I'll read the first sentence and I'll ask some questions about it.

Q "To the degree that a school or department can generate unrestricted income such as tuition, such funds in part may be used to justify an increase in the funding level over and above that of 1973-73."

What does that sentence means?

A At times a school or department may be able to generate additional income such as tuition. And this paragraph attempts to deal with the disposition of such additional income.

Q Now, assuming that a school or department was able to generate additional income, is it free to use that income as it sees fit?

A All income is University funds and the question deals with, to what degree can such additional income be used for the specific project, department or school?

Q Were instructions issued in that letter with respect to that?

[922] A Instructions were issued indicating that the school or department cannot expect to use all of those funds by any means.

Part of those funds must be used to decrease the existing deficit. It goes on further to say, to what degree a department may have use of such funds for their purposes are subject to discussion with the budget committee and approval of the president.

Q The budget committee is made up of the dean of Erna Michael College, yourself and the registrar; is that correct?

A Yes.

Q Let's turn to the sixth paragraph on page three.

A paragraph that says "Every dean and director was charged by the president two years ago with the responsibility of reducing the direct 1970-71 operating deficit during 1972 by a minimum of fifty percent."

Is that a correct statement?

A Yes.

Q What is a direct operating deficit?

A For internal management purposes, we have been calculating budgets on the basis of direct income which is the income directly attributable to a school, department or unit and its direct expenses which are expenses which, in essence, the dean or director has control [923] over and which relate directly or specifically to the operation of the school.

At a school it would be the faculty salaries or laboratory supplies.

In a working department it would be the salary of the personnel action in that department and the goods and supplies they actually order and purchase.

Q Now, Dr. Socol, is this accounting system the same for each of the schools?

A It is the same for each school, department and activity of the institution.

Q Mandated by your office; is that correct?

A Yes.

Q The paragraph continues "This objective was conitnued during 1972/73"; is that correct, a correct statement?

A Yes.

Q What does that mean in lay terms?

A It means that the effort to further reduce the direct expense will be continued.

Q It concludes with "Our efforts during 1973/74 must be directed to further reducing the operating deficit level. One step in the budget finalization process for 1973-74 will be an evaluation of the progress made by each school and department of fulfilling by this date, [924] the presidential charge as outlined above."

Who has made that evaluation, Dr. Socol?

A The evaluation actually took place as the budget committee met with each dean and director in terms of determining justification for the budget level requested for the following year.

Q That evaluation is made by the budget committee, is it not?

A Yes.

Q A central university committee?

A Yes.

Q The goals and aims embodied in paragraph six on page three, do they apply to all graduate and undergraduate schools?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 79 in evidence.

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibit 79 is received in evidence.

(Employer's Exhibit 79 was received in evidence.)

Q Dr. Socol, were guidelines similar to those embodied in Employer's Exhibit 79 distributed for the 1972-73 school year?

[925] A Yes.

Q And are such guidelines in the planning stage for 1974-75?

A Yes.

Q Now, let's turn to faculty salaries. With the exception of Belfer, a graduate school, Strier, an undergraduate school, Erna Michael College, an under-graduate school, and the Bernard Revel Graduate School, how have faculty salaries been set in recent years and by that I mean since on or about 1969, in or about 1969.

A It was about '68 or '69 when the university and the faculty of several schools both graduate and undergraduate established a salary scale for respective members of their faculties.

Q When you said established a salary scale, Dr. Socol, what do you mean by that?

What do we envision when we say this?

A We should visualize a tabulated form of salary depending upon academic rank, years of service in that rank.

Q Is there such a salary schedule for the Ferkauf?

A Yes.

Q Is there such a faculty set-up for Yeshiva College and Stern College jointly?

A Yes.

[926] Q Is there such a schedule for Wurzweiler?

A Yes.

MR. KRAMER: 80A and B marked Exhibit 80 for identification.

(Employer's Exhibit 80A, B marked for identification.)

Q Dr. Socol, I show you Employer's Exhibit 80A marked for identification that is in front of you now, and more particularly the top set of numbers which are headed Ferkauf.

Is that the salary schedule for the Ferkauf School?

A Yes.

Q Now, the second set of numbers reads Yeshiva College, Stern College; is that the salary schedule for Yeshiva College and Stern College?

A Yes.

Q And finally I show you Employer's Exhibit 80B, is that the salary plan for Wurzweiler School?

A Yes.

Q Wurzweiler School is a graduate school, I take it.

A Yes.

Q Ferkauf School is a graduate school?

A Yes.

Q And Yeshiva and Stern Colleges are under-graduate schools?

[927] A Yes.

Q These schedules, and I'm referring to the ones before you, Doctor, were promulgated in or about 1969 for the first time; is that correct?

A Yes.

Q Do you know whether there was slotting required when these schedules were promulgated?

A As best as I'm able to recreate from my files and records, it would appear that when the faculty scale was introduced, existing members of the faculty were assigned, slotted into an appropriate level of the scale.

Q That's for all the scales that I have in my hand, 80A and 80B.

A That's correct.

Q That was in 1969 and 1970.

New hires, or acquisitions from any source, would you tell us how salaries were increased in the schools covered by Exhibits 80A and 80B during the period 1969 and 1970 through 1972-73?

A In essence, each year, a member of the faculty advanced one step, based upon his rank and years of service as the scale provided.

There was one year, 1971, 72, when the institution plan dated an economic freeze on salaries due to the fiscal crisis which I described and no one within the [928] institution received a salary increase during '71 and '72.

Q And that's so whether it is an undergraduate or graduate school?

A Yes, or other than that.

Q It didn't make any difference whether the faculty member was in the bargaining unit of the schools sought here or not; correct?

A Yes.

Q Uniform.
A Correct, yes.
Q Was any adjustment made in the school on Exhibit 80A for the 1972-73 school year, an adjustment that doesn't show on here?
A There was one adjustment for the academic rank referred to as instructor. We without real adjustment to the scale, instructors who were at maximum, received an additional five hundred over and above the scale.
Q Now, let's turn for the moment to the salaries for 1973-74. For 1973-74 and I'm referring to the scales, 80A and 80B at their point, was any adjustment in the scales themselves made for 1973-74?
A Not really.
Q Even though the scales themselves were not adjusted, was a pay adjustment made for faculty members who were [929] in Ferkauf, Yeshiva College and Wurzweiler for 1973-74 and if so, what faculty members and what was the adjustment and I don't mean by name.
A The University responded to the economic pressures of recent years by providing those who were at maximum, maximum meaning that they had reached the maximum salary for their rank and their years at rank by giving them a five percent increase of their base salary.
Q And that five percent increase does not appear on those scales, does it not?
A No, it does not.
Q And that five percent increase for people at maximum was provided people at Yeshiva College?
A That's right.
Q Stern College?
A That's right.
Q Ferkauf?
A Yes.
Q Anyone who was at top scale at Wurzweiler?
A It provided for anyone who was at maximum, at the five percent level.
Q Now, would you describe for us the process by which this five percent adjustment came about?

A It varied, as I recall. The budget committee as such, with the deans of the undergraduate schools met [930] with the faculty welfare committees of the undergraduate schools to discuss this and we indicated to them some time, if I recall, early last summer, that this was the posture of the institution with regard to those individuals who were at maximum.
In regard to the Ferkauf School, there were several meetings taking place with the dean and with members of both faculty and department chairmen with regard to the budget of the Ferkauf School for the 1973-74 fiscal year and this was casually discussed there as an institutional decision.
With regard to the Wurzweiler School, there were no discussions other than with the dean.
These are the four schools related to the scale.
Q There were discussions with the welfare committee at Yeshiva College and Stern College?
A Yes.
Q Those are undergraduate schools?
A Yes.
Q And there were also discussions as you just characterized them at Ferkauf and Wurzweiler?
A Yes.
Q Now, Dr. Socol, Belfer Graduate School, Stryer, an under-graduate school, Erna Michael, an under-graduate school and Revel, a graduate school do not have [931] pay scales as those found in 80A and B; correct?
A That's correct.
Q Do they have published salary scales?
A No sir.
Q Do they have unpublished salary scales?
A They do not.
Q Do the faculty at Belfer receive a salary increase for 1973-74?
A Yes.
Q Was it across the board?
A Basically, yes.
Q And approximately what percentage was that increase?
A Five percent.

Q Was it essentially the same treatment given at Erna Michael College and—

A That's correct.

Q And you have told us that the top rated faculty at maximum of scale in the schools listed at 80A and 80B received a five percent increase, is that correct?

A That's correct.

Q Did the budget committee meet with the welfare committee or any other committee at Belfer in order to determine that the five percent increase—approximately five percent increase would be given?

A It did not.

[932] Q Did it meet with any welfare committee at Erna Michael College?

A It did not.

Q Did it meet with one at Revel?

A It did not.

Q Did it meet with one at Stryer?

A It did not.

Q Did it meet with some kind of a committee other than what might be called a welfare committee at any of the schools to arrive at that increase?

A No, not for that year.

Q Dr. Socol, are you familiar with tuition levels that exist in each of the various schools within the university?

A Yes.

Q Dr. Socol, what is the most significant factor or what are the most significant factors, let's put it that way, that go into determining what tuition levels will be in a particular school at a particular time, if you know?

A Well, basically it relates to what our enrollment patterns are, what other institutions are charging, what degree of student financial aid we have available and at what level we can hope to attract the student who is a good academic student, in terms of our pricing [933] structure. I don't want to call it marketing but to a great degree, the tuition structure relates to that.

Q It would be, in a sense, a marketing concept, would it not?

A Yes, to a degree.

MR. KRAMER: I offer Employer's Exhibit 80A and B in evidence.

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibits 80 A and B are received in evidence.

(Employer's Exhibit 80A and B are received in evidence.)

MR. KRAMER: Mark this 81, please.

(Employer's Exhibit 81 marked for identification.)

Q Dr. Socol, at my request and in preparation of this case, did you review the tuition charges that will be in effect at Yeshiva University for the 1974-75 school year with the exception of the medical school?

A Yes.

Q And did you have an exhibit prepared to reflect those charges?

A That's right.

Q Now, does the exhibit reflect the current charges?

A The exhibit reflects the charges which will be in [934] effect in September of 1974.

Q To the extent the exhibit may differ from the catalogues, I assume the exhibit is correct?

A That's right.

Q I show you Employer's Exhibit 81 marked for identification, a document entitled Yeshiva University 1974-75 schedule of tuition charges.

Is this the exhibit to which you have just referred?

A Yes.

MR. KRAMER: I'll offer Employer's Exhibit 81 in evidence.

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibit 81 is received in evidence.

(Employer's Exhibit 81 received in evidence.)

Q Are you familiar with the process at which tuition levels are established and changed?

A Yes.

Q Would you tell us from your prospective as vice president of business affairs how that process takes place or what it involves?

A Periodically at my direction or at his own initiative, the University director of finances, analyses the tuition structure and compares it with those [935] tuition structures of other universities and meets with the dean of the school and submits a joint recommendation as to whether the charge should be maintained or revised in some way.

Q The joint recommendation involves the student director of finances for the university and the dean of the school?

A Yes.

Q And to whom is that recommendation made?

A That recommendation is made to me. I in turn submit that recommendation to the university executive council which either recommends it, modifies it and then it is submitted to the president for his approval with my recommendation.

Q Dr. Socol, have you had reason recently to examine into tuition charges at several universities in the New York City area?

A Yes.

Q Can it be stated as a general rule that graduate tuition is higher or lower than under-graduate tuition?

A It appears that graduate tuition is lower than under-graduate tuition.

Q Is this uniform throughout the schools?

A No, you can find examples where graduate tuition is higher and you find examples where it is lower and [936] indeed there is no pattern.

Q Universities don't have a uniform pattern in this regard?

A No, they do not.

Q Dr. Socol, faculty members are hired at Yeshiva University each year, are they not?

A Yes.

Q Do you have a role in determining what salary is to be paid to a new hire?

A Yes.

Q Would you give us a feel for what that role is?

A Generally it relates to consultation discussions with the dean of the respective school or the vice president for academic affairs who initiates either the search for a potential new appointee or after a new appointee has been interviewed and acceptable academically or otherwise and we would discuss where the individual would be slotted in with regard to the existing salary scale if there is one or the perimeters of the salary if there is not one, what the funding sources would be and what the long range fiscal implications of such commitments would be.

Q Do you have a decision-making role in this function?

A Yes.

[937] Q Tell us about that.

A In general we try to approach academic life by arriving at decisions by consensus but indeed if I felt that a given situation was beyond institutional philosophy or policy, and I couldn't support that decision, I would not act upon it which would mean in essence that an individual could not get paid, could not be appointed.

Q Would it be fair to say, Dr. Socol, that you have an effective veto?

A I would have an effective veto until overruled by the president, yes.

Q Have you in fact exercised that veto?

A No.

Q Have you engaged in discussions about—

A Yes.

Q Is that the normal way you operate?

A Yes.

I can give examples of salary requests that have changed significantly from the time that they were submitted to me. But through the process of discussion and cooperation, there was a general consensus and agreement that the appointment could be consummated.

Q Would it be a fair statement that salary levels for new hires are not established by the deans of [938] particular schools?

A Certainly not so.

Q They are established in this process of consensus that you described?

A Yes, within the perimeters of institutional policy.

Q Let's turn to the subject of research grants.

Would you tell us from your prospective how a faculty member goes about securing research grants?

A By and large members of the faculty are quite sophisticated and knowledgeable about the specifics of which federal agencies. individuals or foundations have funds to distribute for research or sponsored activities, what they are interested in and what the mechanics are for about going about for a proposal.

It varies from school to school as to what departments are involved or faculty members are involved.

But, the individual who conceived of the idea, prepares the proposal, solicits the support of the dean and the proposal is submitted to the funding agency.

Q Now, Dr. Socol, do many of the grant proposals come across your desk?

A Yes, many do.

Q And is it common to find, particularly on the larger grants that the names of particular faculty personnel are specified other than the principal investigator?

[939] A Yes.

Q Is it also typical on grants to have the number of research assistants and clerical supports specified in the cost?

A Yes.

Q Who selects these faculty other than the principal investigator to work on a particular grant?

A To the best of my knowledge it is basically the principal investigator.

Q You don't do it, do you?

A No.

Q Does the academic vice president do it?

A No sir.

Q To your knowledge does the dean do it?

A No sir.

Q Who selects the research personnel to work on the grants, assistants and research associates and others?

A The principal investigator.

Q Who selects the clerical people to work on the grants

A In essence it would be the principal investigator.

Q And by "select" you mean hire?

A If it is a new hire, yes. If we are dealing with people already abroad, the principal investigator may have to draw from people presently on the staff.

[940] Q I would say it that employment on a grant is a valuable source of summer income among other things to faculty members?

A Yes.

Q Principal investigator and others?

A Yes.

Q You're chief financial officer of the University?

A Yes.

Q Are the personnel employed to service these grants, principal investigators and others, are they employees of the university?

A Of course.

Q Do they appear on the university payroll?

A Of course.

Q Does the university pay workman's compensation for them?

A Yes.

Q Does it pay social security for them?

A Yes.

Q Does it cover them with its other liability insurance policies?

A Yes.

Q And do the normal university personnel control policies and measured applied to these personnel?

A Institutional personnel policies are applied to [941] to these personnel.

Q They are not employees of the grant investigator, are they?

A Certainly not.

Q Doctor, putting aside the medical school, does the university have a personnel department?

A It does not.

Q By the way, do any of the schools—putting aside the medical school again—have a personnel department?
A No.
Q Dr. Socol, is there anyone in your office who supervises the work performed under research grant or under research grants?
A No.
Q For that matter under training grants?
A No.
Q Who directs the work of the personnel engaged on a particular research grant or grants?
A The principal investigators responsibility are both in terms of assurances to the university and to the funding agency that the sponsored project will provide as the proposal indicated and specified.
Q The principal investigator directs the work of all personnel on a project; is that correct?
A Yes.
[942] Q Whether they are faculty members, research assistants, clerical employees or student employees?
A That's correct.
Q Does he have the authority to reprimand them?
A Yes.
Q To dispense with their services on the grant?
A Yes.
Q To dispense with their services all together where they are not otherwise protected?
A Yes.
Q Does the principal investigator have the authority to grant time off?
A He has the authority to modify the schedule but the perimeters are the policies—
Q Within those policies—
A Within those policies, yes.
Q To whom is the grant money given, Dr. Socol?
A The grant is an obligation, a responsibility of the university. All grants funds are issued to, made payable to the institution, the university.

Q To whom does the university look for the management of the project that is the object of the grant?
A The principal investigator.

* * * *

CROSS EXAMINATION

[1000] Q Is it not the dean of the individual school hiring a new faculty member who first submits a recommendation as to the incoming salary rate of that prospective faculty member?
A It's the dean who initiates the action and who begins the discussion which could be the recommendation, yes.
Q You will meet at least annually with the dean for the preparation of the budget at the individual schools, will you not?
A Well, as I described, the budget is an ongoing process. It's not an annual meeting. It's a series of meetings which take place consistently.
Q Generally at what time of the year is the budget prepared?
A I want to reemphasize the point that that is an ongoing process. We never finish one before beginning the other.
Q In the preparation of all the budgets for all the schools in the university, will you always speak to the department chairman of every department of every school of the university?
A Yes. Dean Rabinowitz or myself or in most cases, jointly, we meet with the major administrator, the director of every department of the institution. And indeed we meet with students and faculty groups and other groups as [1001] well.
Q So that even to some extent, the entire faculty have some advisory role in the formulation of a budget?
A Yes.
MR. KRAMER: We would so stipulate, Mr. Schectman.

* * * *

[1028] Q I would now like to turn your attention to the area of the principal investigator. You indicated in your direct testimony that the university issues checks

for the salaries and likewise pays for the firing benefits of those persons employed under a grant.

A That's correct.

Q Where are the funds derived from that pays those people—

A In the individual, or employee, is directly funded through a grant project and allocated through that [1029] project, the ultimate source, the Federal Government is the sponsoring agency.

Q Is it correct that in most cases the salaries and monies are provided by the—if a person is employed solely to work on a grant, has no other responsibilities in the university his entire compensation provided for by grant funds—

A Ultimately, yes.

Q And his compensation would include both his direct salary and fringe benefits, would it not?

A Correct.

Q And will grant funds pay a portion of the faculty member's salary who is working on a funded grant?

A A grant will absorb the cost of a faculty member to the degree that the faculty member is furthering the research of that project, yes.

Q How is that distinction made relative to whether he is acting in another role with the university—

A It's basically made by the principal investigator who inserts the time that the individual member has performed work on the project.

Q What allocation will he make? Will it be a percentage of his time—

A It varies somewhat from federal agency to federal agency, but the Federal Government will accept any [1030] number of reasonable hours—

Q Will this same kind of allotment of time be taken into consideration for the definition of the faculty member's work load?

A I don't follow the question.

Q For graduate school faculty that we have heard on the testimony of Dr. Fishman that there is a definition of full time faculty status according to the time that might be spent teaching or time that might be spent with

grants, is there normally a correlation between the percentage of time, a faculty member spends in furtherance of the grant and the credit he receives toward the definition of full time status?

A There should be. I believe there to be.

Q Do you know how many faculty members or approximately how many faculty members have grants which stand for more than 50 per cent of their allotted time?

A No, I wouldn't even want to guess and I should also point out that many faculty members have two and three and four grants in addition to the other responsibilities. It would be very hard to guess.

Q Is it not true that some grants will require special equipment?

A Certainly.

Q And the university will issue a check for the payment—[1031] checks for the payment for the purchase of such equipment?

A The university is the one held responsible for ultimate responsibility of the project. Certainly in the hiring of personnel or the purchase of equipment that is done.

Q And the equipment that is necessary for a grant, I assume that usually will be designated in the grant application?

A If it is a relatively large piece of equipment, the granting agency will probably require that it be specified.

Q And the grant funds, if that equipment were deemed necessary, would allow for its purchase?

A It could allow for its purchase.

Q Now, you testified also that the terms of employment of personnel used solely for a grant are governed by university policy, did you not?

A Yes.

Q And is that not a requirement in fact, of most of the granting agencies?

A Certainly.

Q That all personnel hired under a grant must be employed pursuant to the personnel policies of the university?

A That is correct.

Q And is it not true that the university would be [1032] primarily responsible for setting the terms of employment including salary for all those employed under a grant?

A Only within broad perimeters.

Q Is it not true that there are suggested to principal investigators very specific annual increases in salaries allowable?

A To answer your question, you would have to either break it down into categories of employees, because it may vary.

Q Are you familiar with the grant that Professor Goldstein at the Ferkauf Graduate School—

A Mr. Goldstein has a rather large contract, not a grant.

Q Pursuant to the contract, are not the terms and conditions of the personnel employed thereunder required to be pursuant to university policy?

A They must be consistent with it.

Q In the past year, did Professor Goldstein submit to you any requests for the salaries of the personnel employed under him with reference to the grant?

A Yes, I believe he did.

Q Did you not deny some of those requests?

A Some were denied, some were modified, some were approved.

Q Did you not state to Professor Goldstein that those [1033] were not approved, modified in accordance with perimeters that the university set for increases—

A Yes, and at that time, there was also compliance on the Federal Wage Stabilization Act, which everybody was bound by.

Q You are an attorney, are you not?

A Not a practicing attorney.

Q Are you a member of the Bar?

A No.

Q You were familiar with the wage guidelines of the Economic Stabilization Act?

A Yes.

Q And you were familiar that there were numerous grounds for exception?

A There were grounds for exceptions, yes.

Q When did he make this request for salary increases, what year?

A You're trying to relate a series of requests as if they were one request at one time. I have now on my desk a request for Dr. Goldstein.

Q Has it occurred in the past that other faculty members submitted requests which you have likewise modified or rescinded or turned down because they were not in accordance with certain perimeters?

A Certainly, that's the function of central administration.

[1034] Q However, is it not true that the principal investigator will hire—will do the hiring of personnel who work solely on his or her grant?

A In essence, yes.

Q Is it not true that to the extent each such person takes part in the furtherance of the grant, that person is directly responsible to the principal investigator?

A The principal investigator is the supervisor.

* * * *

[1037] You said the principal investigator has the ultimate responsibility for the project. Is he not also the originator of the project?

[1038] A He may be.

Q Who else would be?

A Someone else may be.

Q For instance, who?

A It's not unusual for someone who conceived the proposal to be either so heavily involved in work or for other reasons, if somebody else submits the proposal to become the principal investigator.

Q Have you ever originated—

MR. SCHECTMAN: Withdrawn.

Q Is it not true that the faculty member who originates the proposal or the faculty member who will later assume a proposal from the idea of another, and from its inception and througout its furtherance, that

they are responsible for its performance and in fact, define its direction?

A They are responsible to the institution as well as to the granting agency.

Q They do in fact, define the direction of their own proposals?

A I don't know what you mean by define the direction.

Q I will ask some other questions in lieu of that.

To what extent will, or has the university modified proposals submitted by faculty?

A It happens.

[1039] Q Will it generally pertain to physical matters?

A It may pertain to physical matters. It may pertain to physical facilities, availability of physical facilities. It may refer to programmatic matters.

Q What do you mean by that?

A The dean or vice president—there's a grant committee, they could question the desirability of that proposal based upon the resources of the institution. That's a programmatic modification.

Q Once it's approved, it's the faculty member's responsibility pursuant to the proposal to further it?

A In general terms, yes.

Q Subsequent to its programmatic approval, the control by the university is primarily one of a fiscal nature, is it not?

A I can only answer as the vice president for business affairs, that answer is yes, my area is fiscal and fiscal matters, yes.

Q Now, you testified under direct examination that employees under a grant receive certain fringe benefits along with salary, among them, Social Security, insurance and so forth. Is it not true that there are research assistants who are paid no such salary and fringe benefits paid on the basis of a grant, a fellowship grant, with no withholding taxes?

[1040] A If they are employees in the sense of performing service for the grant, they should be employees

of that grant and Social Security and other taxes should be appropriately withheld.

* * * *

[1041] Q Does the university deduct from the grant funds it allots to the payment of salaries and fringe benefits for those personnel acting in furtherance of a grant, some sum of money representing participation in a pension fund?

A As you phrased it, I will answer no.

Q Does the university charge against a grant, any payment to pension funds?

A There again, as you phrased it, the answer is no. If you want me to clarify the issue, there's a composite fringe rate which is applied against grants.

Q And is that composite fringe rate, does it include a component representing payment toward a pension part of a grant fund?

A It could.

Q Does it?

A Yes.

Q Do all the employees under a grant belong to that pension fund?

A The sheer nature of a composite rate means it's an averaging factor of those who do and those who don't to arrive at a rate.

Q So, it's true that on some occasions that that [1042] averaging figure represents some payment toward a pension fund although that employee may not be a member of that fund?

A That is a distortion of what I said.

Q What did you say?

A It's a rate determined upon the basis of certain experience with regard to expenditures made for certain fringe benefit and the composite rate is determined by HEW auditors. This is not only acceptable to HEW, but it's preferable with respect to the accounting aspect also.

Q Do some principal investigators have secretaries employed under the grant?

A Yes.

Q And will those secretaries be union members?
A Conceivably.
Q Do any principal investigators take a principal part in collective bargaining with the union?
A I would say yes. Members of the faculty have served on the university negotiating committee. Whether all of them have always been, I can't say, but we have a cross section representation so no doubt over the years, principal investigators were, yes.
Q I ask you if you had any specific knowledge of any grant in which one faculty member does not in theory, [1043] does not nominally, but does in fact, as an actuality supervise another faculty member and I mean by that—go ahead and answer the question.
MR. KRAMER: I think the addition that you were adding is relevant. It calls for a conclusion of the witness. You're using a statutory term. If the witness said "Yes" we would be bound by his answer. We need a definition of the term before the witness answers. He's not a practicing lawyer and he's not a practicing labor lawyer.
Q I say supervise in terms of direct or control the activities of another faculty member relative to that grant.
A I can't cite a specific faculty grant at the present time, but I would say they do.

* * * *

REDIRECT EXAMINATION

Q (By Mr. Kramer) You say faculty members have secretaries?
A Yes.
Q Who directs them?
A The principal investigator.
Q Who has the authority to select the secretary in the first instance?
[1044] A If a new hire is to be made, it's the principal investigator.
Q That is so whether they are union or non union?
A Yes.

Q If a secretary comes in drunk, does the principal investigator have the right to reprimand that secretary?
A Yes.
Q Whether she's union or non union?
A Yes.
Q Who would she go to if she has a complaint?
A To the principal investigator.
Q And that is so whether it's union or non union?
A Yes.
Q There is no didactic value, is there, in the supervision of secretaries?
A No.
Q You testified that other faculty members, I think this was on your cross examination, have secretaries; is that correct?
A Yes.
Q Do they have the authority to direct the secretaries at the time they are using them?
A They certainly do.
Q Tell them what to do?
A And tell them when to do it and how to do it.
[1045] Q And dress them down if they don't do it properly?
A I would hope they don't have to, but they would if they had to.
Q I would assume if a secretary came in drunk, there would be the right to recommend termination?
A Yes.
Q Is it correct to state that the grants of the university are managed?
A Yes.
Q And they are grants to the university; right?
A Yes.
Q They are not grants to any particular faculty member?
A That's correct.
Q Who manages the grants? Who has the managerial function?
A The principal investigator.

Q You don't, do you?
A Not on a day to day operational basis.
Q Dr. Fishman doesn't?
A No.
Q The deans don't, do they?
A No.
Q Can you give us a feel for the amount of money that has been granted to the university each year for research purposes by these various agencies?
[1046] A I think we're talking about anywhere from —it varies, but I think we can say two and a half to three and a half million dollars per year, excluding the medical school, that would be a reasonable figure.
Q Would it be a correct statement to say that that money is managed by the principal investigators?
A Certainly.

* * * *

[1050] Q You were asked a number of questions by learned counsel concerning Professor Goldstein, recommendations he had made for salary increases for personnel working on his contract or as I would call it, his grant. Do you recall that?
A Yes.
Q You testified, as I recall, that some you accepted and some you modified and some you rejected.
A Correct.
Q Is it a fact, and if it isn't, please tell me, that the majority of Professor Goldstein's recommendations were accepted, if you can recall?
A I would say the majority either were accepted exactly as submitted, or modified as opposed to the number submitted.
Q You testified that people such as Professor Goldstein had the authority to establish salaries of people on their grants within broad perimeters. What did you mean by that?
A For some levels of employees, such as secretaries and clericals, where it's more clearly defined or the type of work is more easily or readily able to be defined, we have minimum salaries and annual amounts of increases

[1051] such as working conditions and fringe benefits. When we go into research associates whose institutional standard of measurement is so difficult, the latitude that is available is considerable.
Q There is no personnel department to look into that program, is there?
A No.
Q Is the dean involved in that?
A Not directly, no.
Q The principal investigator must make those judgments?
A To a great degree.
Q Are those judgments generally accepted?
A Unless they are quite unusual or quite irregular, by and large—in the areas of lab work, or things of that nature, the principal investigator's discretion is followed.

* * * *

[1070] MARTIN MILLER, first having been duly sworn, testified as follows:

THE HEARING OFFICER: Give your name and address to the [1071] Reporter.
THE WITNESS: Martin Miller, 24 Woodmill Road, Chappaqua, New York.

DIRECT EXAMINATION

BY MR. SCHECTMAN:

Q Do you hold a position with the Faculty Association of the Ferkauf Graduate School?
A Yes.
Q What is that position?
A I am president.

* * * *

[1088] Q So in total, how long have you been a member of the faculty of the Ferkauf Graduate School?
A Ten years.
Q Are you a tenured member?
A Yes.

Q In the course of your association as a faculty member at the Ferkauf Graduate School, have you been on any of the committees of the Ferkauf Graduate School?

A Yes, I have.

Q Will you tell us some of those committees.

A The welfare committee, the committee of faculty welfare, I served two stints, one when I first came to Ferkauf in 1964, and then more recently since 1972.

Then the curriculum committee, the standards committee. For a while, as a member of an ad hoc committee on revision [1089] of bylaws.

I am currently a member of the university-wide committee on the new law school, the development of the new law school.

Q Did you indicate in your testimony that you were a member of the standards committee?

A I have been. Last year I was a member.

* * * *

[1093] Q Have there been discussions among the faculty in which you have taken part at the Ferkauf Graduate School, I mean the Ferkauf Graduate School faculty, with particular relevance to the University policies in consideration of the moving of the Ferkauf Graduate School to the main campus?

A Yes.

Q Likewise, have there been formal faculty discussions relative to the role of faculty members of Yeshiva College taking part in dissertation committees at Ferkauf.

A Yes, Yeshiva College and other colleges, and Stern College as well, there have been such discussions.

* * * *

[1099] THE HEARING OFFICER: I assumed that was the purpose of it.

Other than faculty, strictly speaking, your duties require you to have meetings from time to time with other arms of the University, the executive, administrative arm of the University?

THE WITNESS: Well, that will be more likely the case when I become chairman of the department of special education in September.

There are other meetings I have attended. I did, for example, attend a meeting where Dr. School and others presented a briefing on the status of the budget. This was in the spring of 1973. And that was a University-wide meeting.

I will be also involved in the University-wide committee on the law school when that committee convenes.

* * * *

[1107] Q Can you tell us at this time what role you play in the admissions of students at Ferkauf?

A Yes. Well, the department of special education, you know, is largely concerned with the training of professional personnel.

Our admission inputs are very deliberate. When an [1108] applicant applies, the applicant applies to the Ferkauf admissions office. We will subsequently review, do a preliminary review of all credentials with particular regard to professional experience and training prior to the application.

Q You say we will review, what do you mean by we?

A The department will review.

* * * *

[1109] A All doctorial candidates are reviewed, for as long as I have been at Ferkauf, are reviewed by a committee of a minimum of three persons, and I have always been on that committee.

So that I have input on every doctorial candidate, potential candidate, in that sense.

Secondly, I frequently review aplications of applicants for Master's training. I would say about 50% of those applications.

Q In your experience relative to the admissions of students to Ferkauf, do any non-faculty members at Ferkauf play any role in choosing those students who would be admitted?

A Non-faculty members?

Q At Ferkauf.

A Yes, in the sense that the admissions office does a preliminary screening of the application form. No, they [1110] don't do that much screening. Relative to the guidelines that are stipulated by our department and the standards committee of the faculty, as well as the dean of course.

* * * *

Q Does the final decision as to admissions rest in the process you described in your prior testimony?

* * * *

A As I understand the question, the final disposition of an application would depend on the recommendation of the department to which the person has applied. In that respect, the final decision is essentially in the hands of the department.

The formal processing will be expedited by the admissions officer.

Q Are you familiar with the role that the faculty members of the Ferkauf Graduate School play in the hiring of other [1111] academic personnel, I mean faculty, at Ferkauf?

A Yes.

Q Can you describe that role?

A The role will be—typically the initiation of a request for a new faculty person will come from the department concerned.

I think probably always the potential candidacy of certain persons for faculty appointments will be drawn, the names of persons, will be typically drawn from the department.

Initial inquiry will be conducted by the department. The applications or the type of potential faculty will be reviewed by faculty of the department, as well as, of course, the dean.

And given that first hurdle is past, then the potential faculty member will be called in for meetings, for interviews by the department and also will meet the dean and other administrators in the Universtiy sometimes.

That is, the candidates will typically meet the dean, and, I assume, occasionaly, meet other members of the Association.

MR. KRAMER: I think the record will speak for itself as to what the witness means.

Q Are you familiar with the role of the faculty in matters of faculty promotion at the Ferkauf Graduate School?

[1112] A Yes.

Q Will you describe that role?

A Yes, there is a standing committee of the Ferkauf faculty government that has established guidelines. That committee meets regularly, I believe, with the dean sitting as its ex officio on the committee.

The guidelines are rather specific with respect to what the criteria ought to be for promotion.

The department, a given department, through its chair person will ordinarily make a recommendation for consideration of a person for promotion. And that will then be reviewed by the standing committee on promotions and the dean for voting and subsequent recommendation.

MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 12A and 12B a document entitled under the caption Ferkauf Graduate School of Humanities and Social Sciences, and beneath that Yeshiva University, and beneath that criteria and procedures for promotion, a four-page document to be marked as Petitioner's Exhibit 12A.

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 12A for identification.)

MR. SCHECTMAN: As 12B, a two-page document entitled guidelines for promotion with the name J. D. Gittler to the right.

(Whereupon, the document above referred to was marked [1113] as Petitioner's Exhibit 12B for identification.)

Q Professor Miller, in your immediately prior testimony, you testified as to certain criteria, guidelines for promotion.

I show you Petitioner's Exhibit 12A marked for identification. Are those the criteria and guidelines to which you referred?

A Yes, I believe so.

Q To the best of your knowledge, are those currently in effect?

A Yes, I believe they are.

Q And with respect to Petitioner's Exhibit 12B, marked for identification, I indicate on the top line the name J. D. Gittler over the date February, 1970.

Can you identify that name?

A Joseph D. Gittler is the dean of the Ferkauf Graduate School of Humanities and Social Sciences.

Q He was the dean in February, 1970?

A Yes.

Q Is he currently the dean?

A Yes, he is.

MR. SCHECTMAN: I now offer the exhibit into evidence.

MR. KRAMER: I would like to look at it.

I have no objection.

THE HEARING OFFICER: Petitioner's Exhibits 12A and [1114] 12B are received in evidence.

(Whereupon, Petitioner's Exhibits 12A and 12B were received in evidence.)

Q Professor Miller, are you familiar with the faculty's role in matters of tenure of faculty at the Ferkauf Graduate School?

A Yes.

Q Could you describe that role to us?

A It is rather similar to the promotions procedures in the sense that there are solicitations to departments for recommendations for prospective tenure from the dean.

The dean, Dean Gittler has, at least in the past, had a special committee or council, I don't really recall the

formal title, but I served on that committee during one year, I think I neglected to mention that earlier, which discussed procedures and makes recommendations on review process, and subsequently after review of a great variety of materials all tenured faculty at the school votes on the admission of someone to tenure.

Q When you say on the admission of someone to tenure, would that someone be—

MR. SCHECTMAN: Strike that.

Q Tell us what you mean by someone.

A A member of the Ferkauf faculty who has been recommended for tenure.

[1115] Q Do you have any knowledge of whether any such recommendations have not been approved?

A To the best of my knowledge, recommendations from Ferkauf for final approval have not been denied.

Q Now, is there then a formal committee to deal with the matter of tenure?

A Is there a formal committee?

Q Yes.

A The committee, I believe, was at the dean's pleasure and was constituted by him. I don't believe there is a formal committee in the faculty government.

However, the faculty welfare committee does have in its pervue the matter of reviewing policy with respect to tenure.

Q Now, is there a formal standing committee that deals with matters of promotion?

A There is a formal standing committee to that effect.

Q What other formal standing committees are operative at Ferkauf?

A There is a considerable number. There is the steering committee, which is a kind of administrative committee on committees, I suppose one might say.

There is a library committee which is properly concerned with matters of the library.

There is a research committee which in the past had [1116] a budget and was able to provide seeding money for new projects.

There is a curriculum committee which is concerned with the review of all faculty, all academic programming at Ferkauf.

The standards committee which is concerned with academic standards, admissions policies, requirements for degress and the like. And also serves as a kind of review panel for students, and I believe in the bylaws it is not only students, but also faculty and administration of the school with respect to academic questions.

Q Now,—

A I think that about exhausts it.

Q With particular respect to the curriculum committee, you testified that is concerned with the academic program at the Ferkauf Graduate program.

A Yes.

Q Is it concerned with the academic programs at any other parts of the University?

A No.

Q What action is required before a new academic program is accepted and put into effect?

A The committee reviews the input of various departments. Then makes its recommendations to the whole faculty sitting as a committee of the whole, I guess, in the faculty govern- [1117] ment meetings.

Then that whole faculty must approve a program change.

Q When you say whole faculty, what do you mean?

A I mean all those members of the faculty who are voting, full and voting members of the faculty government, Ferkauf Graduate School.

Q And solely at the Ferkauf Graduate School?

* * * *

[1120] Q Is the welfare committee at the Ferkauf Graduate School a standing committee?

A Yes.

Q And briefly, what are its responsibilities and role?

A Its primary responsibilities are to deal with respect to matters of faculty welfare such as questions of salary and working factors, conditions such as tenure policy,

sabbatical leave, policy of leave of absence. Matters of [1121] that nature.

Q What has been your role on the welfare committee?

A For the last two years, I have been chair person of that committee.

Q Are you aware of the salary schedule for the Ferkauf faculty?

A Yes.

Q Is that salary schedule applicable to the faculty of any other schools of the University?

A No.

Q Do you know who took part in the formulation of that salary scale?

A The faculty welfare committee together with the dean, and I am not certain, but the then vice president for financial affairs, I believe, was also involved, Mr. Levine.

Q Did the welfare committee on behalf of the faculty at Ferkauf undertake to review salaries and other working conditions at the Ferkauf Graduate School for the academic year of 1973-1974?

A Yes.

Q When did that effort commence?

A It began in the early part of 1973, I think sometime in February at a faculty welfare committee meeting.

MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 13, the minutes of the meeting [1122] of faculty welfare committee February 5, 1973.

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 13 for identification.)

Q I show you Petitioner's Exhibit 13 marked for identification. Can you identify that document?

A Yes.

Q Does it properly set forth the items of discussion at the faculty welfare committee on February 5, 1973?

A Yes.

Q And you were present at that meeting?

A Yes.

Q And at that meeting did the welfare committee undertake consideration of future matters of working conditions, salary?

A Yes, we did.

* * * *

[1132] Q Professor Miller, subsequent to the faculty welfare committee meeting of February 5th, did the welfare committee develop a proposal or prospective salary benefits for the faculty at Ferkauf?

A Yes.

[1133] Q Did the entire faculty at Ferkauf pass on that proposal?

A Yes, it did.

Q Did you forward that proposal with a covering letter to any university committee?

A Yes, I did.

Q To what committee was that?

A The budget committee. Each member of the budget committee.

MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 14A, B, and C letters addressed to Dean Jacob Rabinowitz, Dr. Sheldon Socol and Professor Morris Silverman.

(Whereupon, the documents above referred to were marked as Petitioner's Exhibits 14A, B and C for identification.)

Q I show you Petitioner's Exhibit 14A, B and C. Did you write these letters?

A Yes, I did.

Q In what capacity did you write them?

A I wrote them as chair person of the faculty welfare committee of Ferkauf Graduate School.

Q Do you know if these letters were received?

A I believe they were.

MR. SCHECTMAN: I offer these letters into evidence.

[1134] MR. KRAMER: No objection.

THE HEARING OFFICER: Petitioner's Exhibit—

MR. KRAMER: Except that we don't have the attachments to these letters.

MR. SCHECTMAN: We are putting them in now.

THE HEARING OFFICER: Petitioner's Exhibits 14A, B and C are received in evidence.

(Whereupon, Petitioner's Exhibits 14A, B and C were received in evidence.)

MR. SCHECTMAN: I now offer to be marked for identification as Petitioner's Exhibit 15, a document dated April, 1973, entitled a proposal for faculty salaries, faculty welfare committee, Ferfauk Graduate School, Yeshiva University.

(Whereup, the document above referred to was marked as Petitioner's Exhibit 15 for identification.)

Q Professor Miller, I show you Petitioner's Exhibit 15 marked for identification. Is this the proposal for faculty salaries prepared by the Ferkauf welfare committee?

A Yes, it is.

Q And was that proposal presented to the entire faculty at the Ferkauf Graduate School?

A Yes, it was.

Q And with what intention was that proposal presented to the faculty by the welfare committee?

[1135] A It was presented as a draft for their consideration with the indication that it would be submitted to the University budget committee.

Q And what action did the faculty at the Ferkauf Graduate School take on that proposal?

A Well, they approved it unanimously.

Q Do you know at what date they approved it?

A On April 9th.

Q Was this proposal submitted with the letters that have been introduced into evidence as Petitioner's Exhibits 14A, B and C?

A This proposal was sent on that date with those cover letters, under those cover letters. On that same date.

MR. SCHECTMAN: We offer the proposal into evidence.

MR. KRAMER: No objection.

THE HEARING OFFICER: There being no objection, Petitioner's Exhibit 15 is received in evidence.

(Whereupon, Petitioner's Exhibit 15 was received into evidence.)

Q Now, upon your forwarding of that proposal to the budget committee of the University, did you receive a response?

A No, there were telephone conversations with Dean Rabinowitz and Dr. Socol and Dean Gittler about a meeting that was to take place in response to that letter.

[1136] Q Did, in fact, a meeting take place to discuss the proposal set forth in Petitioner's Exhibit 15?

A Yes.

Q Approximately when was that meeting?

A It was in early May.

Q Can you tell us who was in attendance?

A Yes, there were Dean Rabinowitz, Dr. Socol, Dean Gittler, myself, Dr. Norman Gordon, Dr. Nathan Stillman.

Q In what capacity were Dr. Gordon and Dr. Stillman present?

A They were members of the welfare committee.

Q Did the welfare committee at that meeting submit and discuss the proposals set forth in Petitioner's Exhibit 15?

A Yes.

Q What was the outcome of that meeting?

A Well, mainly the meeting—the main substance of that meeting was concerned with the problem of the budget for the University. There was no decision made at that meeting with respect to the proposal, but there was subsequent meetings. Nothing scheduled.

Q Did you receive at any subsequent time a request from Dean Gittler to meet again to discuss—to meet again with the welfare committee to discuss the budget and salary proposals for the Ferkauf faculty?

A Yes.

[1137] MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 16, a memorandum on the stationery of Ferkauf Graduate School of Humanities and Social Sciences to Professor Martin Miller from Dr. J. D. Gittler with a handwritten indication, a handwritten entry appearing to be "Joe K."

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 16 for identification.)

MR. KRAMER: So the characterization of the letter is correct, I read it Ferkauf Graduate School of Humanities and Social Sciences Yeshiva University.

MR. SCHECTMAN: That is correct.

MR. KRAMER: The reader will see for himself.

Q I show you Petitioner's Exhibit 16 marked for identification. Did you receive that memorandum, Professor Miller?

A Yes.

Q And at the point that—approximately when did you receive that memorandum?

* * * *

[1155] MR. SCHECTMAN: I offer to be marked for identification a letter dated September 26, 1973, addressed to President Bacon on the stationery of the Yeshiva University Graduate Faculty Association.

Mark it Petitioner's Exhibit 17 for identification.

(Whereupon, the document above referred to was marked Petitioner's Exhibit 17 for identification.)

Q Professor Miller, I show you Petitioner's Exhibit 17. Did you sign and send this letter, also signed by Professor Behrends in its original, to Professor Bacon?

[1156] A Yes.

MR. SCHECTMAN: I offer Petitioner's Exhibit 17 marked for identification into evidence.

THE HEARING OFFICER: I gather there is no objection?

MR. KRAMER: I have no objection.

THE HEARING OFFICER: Petitioner's Exhibit 17 marked for identification will be received in evidence.

(Whereupon, Petitioner's Exhibit 17 was received in evidence.)

Q Did you receive a response from any University official from that letter?
A Yes.
Q From whom did you receive that response?
A Dean Gittler.
MR. SCHECTMAN: I offer to be marked for identification a letter dated October 24, 1973, addressed to Dr. Martin Miller, and signed Joe over the typewritten name Joseph P. Gittler.
I offer it as Petitioner's Exhibit 18 for identification.

(Whereupon, the letter above referred to was marked as Petitioner's Exhibit 18 for identification.)

Q I show you Petitioner's Exhibit 18, is this the response you indicated in response to my immediately prior question that you received from Dean Gittler?
[1157] A Yes.
MR. SCHECTMAN: I move the admission of Petitioner's Exhibit 18 for identification.
MR. KRAMER: I have no objection.
THE HEARING OFFICER: Petitioner's Exhibit 18 is received in evidence.

(Whereupon, Petitioner's Exhibit 18 is received into evidence.)

Q Now, in the letter of October 24th, Dean Gittler asks again that the members of the welfare committee meet with him and the University budget committee.
Did any such subsequent meeting occur?
A No, it did not.
Q Did the welfare committee of the Ferkauf Graduate School pass any resolution relevant to such a meeting?
A Yes, it did. To the principal of such a meeting, yes.
MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 19 a document entitled

minutes of the meeting of October 15, 1973, under the faculty welfare committee.

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 19 for identification.)

Q Professor Miller, did the faculty welfare committee meet on October 15, 1973?
A Yes, it did.
[1158] Q And you were present at that meeting?
A Yes.
Q Did the welfare committee agree on a certain statement?
A Yes, it did.
Q Does Petitioner's Exhibit 19 for identification properly set forth that statement?
A Yes.
Q Was that statement made known to the rest of the faculty at the Ferkauf Graduate School?
A Yes, in a subsequent general faculty meeting.

* * * *

[1185] Q (By Mr. Schectman) Professor Miller, how are department chairmen chosen at the Ferkauf Graduate School?
A They are elected by the respective departments.
Q Are you a department chairman?
A Yes, I am.
Q Of what department?
A Department of Special Education.
Q That department is?
A That department is—
Q Where is that department?
A At Ferkauf Graduate School.
Q When did you become a department chairman?
A Just this semester.
Q When were you elected?
[1186] A It was a year ago last May, in preparation for this semester.
MR. SCHECTMAN: Off the record for a moment.
HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Schectman) Are you familiar with the role and responsibilities of department chairmen?

A Yes, I am.

Q What is their primary role?

A Primarily department chairmen, or chairpersons, are conduits between the dean and the membership of the department that they chair.

They have administrative functions were in the department, with respect—given the advice and consent of the faculty that they lead.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Schectman) Do departmental chairmen have secretaries?

A No. Departments have secretaries or in our case and administrative assistant and a typist.

Q Are that person's services then shared by the [1187] department?

A Yes.

Q Do you hire or fire the administrative assistants or secretary-typists?

A No. As a matter of fact—

* * * *

Q When you assumed your chairmanship this fall, were any new staff hired?

[1188] A No new faculty were hired, and no new clerical persons were hired.

Q Who is the administrative assistant working for the department now?

A Her name is Mrs. Beatrice Schwartz.

Q Was Mrs. Schwartz working for the department last year?

A Oh, yes, quite a few years.

Q What is the role of the department chairman in appointment of faculty?

A It is essentially an advisory role. Again, the department chairman speaks for the faculty of the depart-

ment, in an advisory sense to the administration with respect to hiring.

Q What is the role of the department chairman with respect to the promotion of faculty?

A It is similarly advisory. The chairman will sound out the sentiments of other members of the faculty with respect to a recommendation from the department on a promotion.

Q And what is the role of the department chairman in the matter of tenure?

A It is analogous to the problem of promotion.

Q Does a department chairman recommend salary increases?

[1189] A No. We have a salary scale, as I have heard testimony to here, and so there are no—there is no such role for the department chairman.

Q In the course of your employment at Yeshiva University, have you been a principal investigator with respect to any grants?

A Yes, I have.

Q Over what period of time have you been a principal investigator?

A Well, I would have to say a majority of my tenure at Yeshiva has been involved—I have been involved as principal investigator for one or two grants. About eight of the ten years I have been there, I suppose.

Q So then are you not familiar with the—strike that.

Can you describe to us the process by which you formulate a grant proposal?

A Yes. Essentially—

Q Let me just add, I am referring now to particularly in your capacity as a principal investigator.

A Yes. That will involve a good deal of consideration as to how to prepare a meaningful research design, a viable budget that would be in line with the expectations of the funding agency.

It would require library research, and a [1190] good deal of private contemptlation.

* * * *

Q Would you just outline the number of grants where you have acted as a principal investigator.

MR. KRAMER: At Yeshiva.

A At Yeshiva. I have directed, been principal investigator on one research grant and two training grants, one currently.

Q Okay.

A One of those two training grants is current.

Q Is your prior testimony with reference to your experience on those three grants?

A Yes, it was.

* * * *

[1191] Q To facilitate the consideration by the Hearing Examiner and the Board, could you clarify for us, Professor Miller, the distinctions between a training grant and a research grant?

A Yes. If the terms don't speak for themselves, a research grant is concerned with the collection of information, through scientific process, while a training grant is fundamentally concerned with the development of, in our case, professional personnel support, typically in the form of stipends, fellowships, assistantships, traineeships, depending on what they happen to be called at a particular point in time.

So the emphasis is quite different. The [1192] training grant is wholly in keeping with the typical academic enterprise, while the research grant attempts to involve separate preoccupations.

Q Must you file grant applications for both types of grants?

A Yes.

Q And domestic grant applications have to be renewed periodically?

A Yes, they do.

Q Usually how often?

A It will vary with the particular grant. Training grants typically require annual renewal, at least annual reconfirmation.

Currently, for example, our department training grant is a three-year grant, subject to the satisfaction of the

funding agency during that period, but prior to this period they were submitted annually.

Q Is your prior testimony with respect to the preparation of grant proposals applicable to both kinds of grants?

A Yes.

Q Now, you did testify with regard to your input to those grant proposals.

Could you now describe the input of the university, if any, into such grant proposals?

A Yes.

University administration will review the [1193] proposal, grant proposal, mostly in terms of the budget and its correspondence to the university policy. It is a minimal role.

* * * *

[1194] Q (By Mr. Schectman) Were any personnel hired under any of the grants to which you have referred?

A Yes.

Q Would you describe personnel that were hired under those grants?

A Yes. In my research grant a variety of assistants were hired. In the training grants, staff, support staff, were hired with respect to—and are hired, with respect to the operation of the training program.

Q Would any of those personnel be eligible for membership in the faculty graduate association?

A No.

* * * *

Q Were those personnel solely and exclusively employed in the furtherance of your grant?

A Yes, they were.

[1195] Q Were you the sole supervisor of those personnel?

A Yes, I was.

Q Did your grant proposal include any reference to the salaries of those personnel?

A Yes; typically did.

Q And to what extent were their salaries paid out of the grant funds?

A Exclusively.

Q Do you have any knowledge—strike that.

Did your grant proposals include any allotment for any payment of your salary?

A Yes, it did.

Q Was there any usual correlation between that allotment and your grant—and your work on the grant?

A Yes. There was a reasonable course. If 25 percent of my time were stipulated by a grant, for example, I would—my work would be proportionately distributed in terms of that allotment.

Q Was your definition of your status as a full-time faculty member accordingly adjusted with respect to your grant work?

A Yes, it was.

Q Did the granting agency issue any rules, regulations or directive, with respect to the furtherance of administration of the grant?

A Yes.

[1196] Q And did those directives make any reference to the personnel policy by which personnel you employed under the grant were to be employed?

A Yes. It was to be consistent with the policy of the university, or the grantee.

Q Is there a requisition process for the distribution of funds in connection with the grant?

A Yes, there is a process.

Q Could you describe that process?

A Yes. If funds are to be disbursed on behalf of a given grant, a request is passed on to the person responsible for processing such requests from the principal investigator of the project.

Q Okay.

A I should add that these are always consistent with the grant, as provided for in the proposal that has been accepted in the grant award.

Q Is it not then the principal investigator who initiates those requisitions?

A Yes.

Q And whom is the person to which they are directed?

A Ultimately to the—the grants administration component of the university. More directly in our school, to Mrs. Sedlach, who processes such requisitions.

[1197] Q Are any funds from the granting agency paid directly to you?

A No.

Q And the requisition process to which you referred, is that effective for other principal investigators as well?

A Yes.

Q What were the granting agencies that made the grants which you have acted as principal investigator on?

A There were two funding agencies that I have been involved with. National Institute of Mental Health, and the United States Office of Education. Both components of the Department of Health, Education, and Welfare.

Q Do you know if those granting agencies administer or issue grants to other colleges and universities as well?

A Yes, they do.

• • • •

Q Are you familiar with other grants that have been [1198] in effect and are in effect at the Ferkauf Graduate School?

A Yes, I am.

Q Are you familiar with the principal investigators?

A Yes, I am.

Q And have you had occasion to speak to them about their grants?

A Frequently.

Q Would you say you know all the principal investigators at the Ferkauf Graduate School?

A I would say I know him. I cannot say that I know all. Perhaps it turns out that way.

Q Now, with respect to your research grant, can you tell us what the final step or—in the proposal was under the grant?

A The final disposition of the grant is a final report submitted to the funding agency.

• • • •

[2006] HEARING OFFICER: Let's go back on the record.

Mr. Kramer, will you now present the employer's position as to the unit involved?

MR. KRAMER: Mr. Chaiet, as you may know, this is the second time this year that we, Yeshiva University, have been brought here to this Board for the determination of a question concerning representation involving our faculty.

In the latter part of May, 1974, in Case No. 2-RC-16517-18, the predecessors of the petitioner herein, the faculty association of the Belfer Graduate School of Science, by its president, a Professor Behrens, and the faculty association of the Ferkauf Graduate School of Social [2007] Sciences and Humanities, by its president, Professor Miller Etchfield (phonetically spelled) separate petitions seeking to represent separate units limited to the faculties of each of those two schools or in the alternative during the course of the hearing advised the Regional Director through the Hearing Officer that they would accept a unit that included all the graduate faculty of Yeshiva University, excluding the medical school or in the alternative would participate in an election that includes all faculty at Yeshiva University both graduate and undergraduate, once again excluding the medical school.

During that case, Mr. Hearing Officer, the University took the position, as it does here, that all members of the faculty are either supervisors or managerial employees under the Act.

I so stated in my opening statement.

Further, we argued there that if some faculty at our school is to be found eligible to participate in a Board-conducted election, and indeed they should not, because of their managerial and supervisory status, the appropriate unit should certainly include all non-supervisory and/or non-managerial non-medical schoolschool faculty at the university carrying a full-time load.

Later testimony was given to define that term, full-time load.

[2008] In this regard we maintained in the prior case, as we shall maintain here, that all divisional and departmental chairman and all senior faculty who act as de facto department heads, should be excluded from the unit as supervisors and/or managerial employees, and that in any all principal investigators should be excluded from the unit on account of their supervisory and/or managerial standing.

It was also the University's position in the first case, as it is here, that all associate and assistant deans should be excluded for the same reason.

Finally, Mr. Hearing Officer, we argued in the prior proceeding as we do here, that all personnel who have been notified by the University prior to the direction of election that they will not be teaching at school next year should not be permitted to vote and that those persons who have resigned their employment effective next year either prior to or after the direction of election should not be permitted to vote, Mr. Chaiet, in Case No. 2-RC-16517-18 there were eight days of hearings, a record of some 1216 pages was made beginning on June 10, 1974, and the Hearing Officer received 82 University exhibits including the catalogs of all of our schools, and 20 petitioner's exhibits.

On October 22, 1974, petitioners withdrew [2009] their petition in Case 2-RC-16517-18, without prejudice to its reinstitution, this despite the fact that a simple amendment of the petition could have and indeed would have extended it to a university-wide unit which was in any event an alternative unit position of the petitioners therein.

On October 30, 1974, the petition in this case was filed.

It was refiled by the Yeshiva University Faculty Association which, as we see it, is an expanded version of the prior petitioners who have restyled themselves under that appelation and filed the petition in this case seeking an overall university-wide unit.

Indeed the signature on the petition in this case is the same Dr. Behrens who signed the petition—one of the petitions in the prior case.

Mr. Hearing Officer, while on its face the proceeding—this proceeding is separate from its predecessor, which was only closed out by Board order, by Regional Director's Order seven or eight days before the petition was filed here, on its face it is separate from its predecessor.

It is for all intents and purposes a continuation of that prior proceeding.

The record of that proceeding contained contains a detailed analysis of how the university is [2011] governed and managed and substantial evidence that establishes that principal investigators are managerial and/or supervisory employees.

Mr. Chaiet, because our—and I mean the University's positions, particularly on the supervisory and managerial issues—remain the same, because counsel in both cases are the same, because the controlling parties are for every real purpose one and the same, and because the record in the prior case is of recent origin and squarely pertinent with respect to all the issues that we will raise here, we shall ask you, as the Hearing Officer, to incorporate that record into this proceeding in its entirety, as if fully made herein by introducing it as a Board exhibit.

* * * *

[2013] Mr. Chaiet, we fully realize that the Board has decided many cases involving university faculties and the conceptional questions we are raising are not brand new.

Indeed they are not, although our fact pattern, we think, is quite singular.

What we ask here is an opportunity to develop a full and complete record to present to the Regional Director, to the Board and, if necessary beyond.

What really is at issue here, Mr. Chaiet, is this very vital—is a very vital and meaningful question to this University:

We seek to obtain a correct resolution of this vital question, namely, who manages the functions of and [2014] supervises the operations of our institution of higher education within the meaning of those terms as

used in the National Labor Relations Act and by the Board and by the courts.

* * * *

[2023] MR. KRAMER: Mr. Hearing Officer, I will not be long.

* * * *

[2024] Secondly, the question of managerial status, the University is not saying here that the faculty and the faculty alone managed the University and let the record be clear on that subject because implicit in Mr. Schectman's remarks was that implication.

What we are saying, however, it is that the faculty of our school share so significantly in the managerial process of our school as to be managerial employees; that is the kind of issue the Board has to decide here.

Clearly, there is a president and Board of Trustees, and vice president of academic affairs and a vice president of finance.

What we are going to prove here is the great sharing that goes on here.

* * * *

[2031] MR. KRAMER: Mr. Hearing Officer, the University renews its motion and asks for the full incorporation of this record, the record made in the prior case, all the exhibits, both the employer exhibits and the petitioner exhibits, and the Board exhibits, as if that record had been fully made herein in this non-adversary proceeding, with the right of counsel to correct that record or supplement that record, as he sees fit.

All those witnesses testified under oath.

[2032] All of those witnesses, as I see it, now, are in this room, I believe, except for Professor Miller, who I understand is teaching but is available and will be subpoenaed by the University, so that he will be here, if that is necessary, later on, if he is not produced by counsel for the other side.

The fact of the matter is everybody—everybody here knows that that record was taken and knows what is in that record, knows it applies to all the issues here, which indeed it does, and it should be admitted.

Otherwise it is to make a mockery out of the Board's procedures and processes which is actually what it is being attempted to be done here.

* * * *

[2041] HEARING OFFICER: Let us go back on the record.

I am going to deny Mr. Schectman's motion, grant Mr. Kramer's motion, and for convenience sake the exhibit—the transcript will be marked as Board Exhibits 2-A through I, "A" being the first volume, the first day of hearing; "B" being the second day of hearing, through until "I", which is the last day of hearing.

* * * *

[2042] For convenience sake also, I would like to have it noted that any exhibits offered into evidence in this hearing will be marked starting with the number, 100, so as not to confuse them with the exhibits that will be part of the prior exhibits.

* * * *

[2058] DAVID MIRSKY

being first duly sworn by the Hearing Officer, was examined and testified as follows:

HEARING OFFICER: Please give the reporter your name.

THE WITNESS: My name is David Mirsky, M-i-r-s-k-y.

[2059] DIRECT EXAMINATION

Q (By Mr. Kramer) Dean Mirsky, by whom are you employed?

A By Yeshiva University.

MR. KRAMER: Can we go off the record for a minute?

HEARING OFFICER: Yes.

Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Q (By Mr. Kramer) In what capacity?

A I am the Dean of Stern College for Women.

Q How long have you been dean of Stern College for Women?

A Since September of 1968.

Q And how long have you been employed by the University, Dean?

A Since 1948.

Q Are you a member of the faculty?

A Yes, I am.

Q And what title do you hold?

A Professor of English.

Q Where is your base appointment?

A At the moment it is at Stern College for Women, sir.

[2060] Q Dean, have you actually taught at Yeshiva University?

A Yes, I have.

Q Would you tell us about that, please?

A I taught at what is now called the Erna Michael College for Hebrauc Studies.

At the time that I taught there it was called the Teachers' Institute for Men. I taught at Yeshiva College. I taught at Stern College. And I taught at Ferkauf Graduate School.

Q When was the last time that you taught, as best as you can recall?

A I taught last fall as a result of an unfortunate incident, the demise of a faculty member and previously I taught regular courses, about two—two and a half years ago.

Q What did you teach last fall?

A I taught a course in Milton and The 17th Century.

Q Where did you teach that?

A Stern College for Women.

Q Where did you teach two and a half years ago, Dean?

A At Stern College for Women.

Q What did you teach?
A I taught a history of the Novel and Seminar and Joyce.

* * * *

[2065] Q And what is a contact hour?
A Generally the contact hour are the hours that the instructor spends in contact with the student, actual instructions within the classroom or in certain courses, conference with the student where that is a regular part of the course.
Q Would you tell us what credit hour means?
A A credit hour are the number of credits that are given to a student upon successful completion of a course towards meeting the basic residence requirement for a degree.

* * * *

[2076] Q Now, Dean Mirsky, what are your responsibilities as the Dean of Stern College for Women?
A I am to serve as the educational leader of the college and report to the president through the [2077] vice president for academic affairs on how the college is conducting itself.
Q You say as to how the college is conducting itself.
Is there in fact a faculty organization at Stern College for Women?
A Yes. The faculty is organized as a faculty.
Q And is there a thing called the faculty organization or a body called the faculty organization?
A Yes.
MR. KRAMER: Here is 102; mark that, please.

(Thereupon, Employer's Exhibit 102 was marked for identification.)

(Thereupon, Employer's Exhibit 101 previously marked for identification, received in evidence.)

MR. KRAMER: I now offer Employer's Exhibit 101 in evidence.
HEARING OFFICER: Any objection, Mr. Shectman?
MR. SHECTMAN: No objection.

HEARING OFFICER: Received.
[2078] HEARING OFFICER: Any objection, Mr. Shectman?
MR. SHECTMAN: No objection.
HEARING OFFICER: Received.

(Thereupon, Employer's Exhibit 102 previously marked for identification, received in evidence.)

Q (By Mr. Kramer) I have here Dean Mirsky, a document entitled, "Stern College for Women, Yeshiva University, Faculty Organization Interim Document I."
Are you familiar with that document, Dean?
A Yes, I am.
Q And it is marked as Employer's Exhibit 102, for identification, is it not?
A Yes, it is.
Q To your knowledge, Dean Mirsky, was this document approved by the faculty of your school?
A Yes, it was.
Q And has this document been distributed to the faculty of your school?
A Yes.
Q Dean Mirsky, are faculty meetings in fact held at Stern College for Women?
[2079] A Yes, in accordance with the requirements of the document.
Q Approximately how many times each academic year do these meetings take place?
A We meet a minimum of four times each academic year, two in each semester and then as business requires or at the request of faculty we can have additional meetings—either additional regular meetings or additional special meetings.
MR. SHECTMAN: Can we have a clarification here in reference to the faculty since we are talking about full-time and part-time?
MR. KRAMER: I am going to get that right in my next set of questions, Mr. Shectman.
I am glad you raised that point.

Q (By Mr. Kramer) Now, Dean Mirsky, referring to this document and more particularly to item 4(b) on page 1 of this document, are all members of the faculty in fact invited to faculty meetings, and are they in fact permitted to participate freely in deliberations, Dean?

A Yes, they are.

Q And is that so whether they are full-time faculty members or part-time faculty members?

A Yes; that is so.

[2080] Q And in your experience, Dean Mirsky, do part-time faculty members actually participate in these meetings?

A Yes.

Q And you have seen them do so?

A Yes.

Q Now, let us turn to item 4(c).

A Yes.

Q Is it a fact, Dean Mirsky, that part-time faculty members who have been at the college three or more consecutive years and who teach three or more hours are entitled to vote in faculty meetings?

A Yes, they are.

Q And they are entitled to participate regardless of their amount of service; is that correct?

A Yes.

* * * *

[2086] Q Isn't it a fact, Dean Mirsky, that Employer's Exhibit 102, 103 and 104 taken together represent the basic documents underlying the government—governance structure of the faculty at Stern College for Women?

A Yes, that is true.

* * * *

[2091] Q (By Mr. Kramer) With respect, Dean Mirsky, to the committees listed in Employer's Exhibit 102, which is interim document No. 1, have those committees in fact been established?

A Yes, they have been.

Q And that is pursuant to action taken by the faculty [2092] as reflected in interim document—as reflected in

the document entitled, "Further Faculty Action on Faculty Organization Interim Document 1," which is Employer's Exhibit 103.

Is that correct?

A Yes, that is correct.

Q So those committees exist, do they not?

A Yes, they exist at the college, with the one exception I mentioned, the committee on student life.

MR. KRAMER: I renew my offer of the documents.

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

* * * *

Q (By Mr. Kramer) Dean Mirsky, I show you Employer's Exhibit marked 105 for identification, a document entitled, "Senate Unofficial List," [2093] standing committees of the faculty, 1974-1975.

Are you familiar with the document?

A Yes, I am.

* * * *

[2094] Q —first.

Does the typed material deal with standing committees?

A May I review that?

Q Yes.

A The Committee on Academic Statistics is a standing committee.

The Committee on Academic Standards is a standing committee.

The Committee on Admissions is a standing committee.

The Library Committee is a standing committee.

The Faculty Committee Welfare Committee is a standing committee.

And the Committee on Promotions is a standing committee.

Q Would you, just to complete the record, Dean, identify the Ad Hoc Committees, so to speak?

[2095] A They are not necessarily ad hoc committees, but they list faculty members to serve on various committees either within the college or on university-wide committees representing the college.

For example, the Committee on Awards is established to help distribute awards to graduating seniors on commencement.

The University library committee is a university-wide library committee of which Stern College is a representative and we send one of our faculty members to sit on that and it is here listed.

The senators of the Senate Committee are not standing committees of the college, but we have the faculty members who are elected to serve on the senate and the students who are elected on the senate list here.

The shape major committees is an ad hoc committee of the faculty which serves at my invitation to review requests by students to have a shape major approved for them as their official major at the school.

The university-wide committee for the Bi-centennial Celebration is what the name indicates, and one of our faculty members is asked to represent us there.

The university review committee [2096] is a university-wide committee and that lists the name of the faculty member who was elected to represent the college on that committee.

The university pattern policy committees, a university-wide committee to which we were invited to send a faculty representative and that lists the name of the faculty member who was there sent.

And the university computer committee is a university-wide committee dealing with computer operations, and that lists the name of the faculty member of Stern College, who represents us on that committee and the committee on ceremonial occasions is a university-wide committee and that lists the name of the faculty member who represents Stern College at that committee.

Q And that, I take it, Dr. Mirsky, covers this entire exhibit?

A Yes. All the names on the list.

Q All right.

Now, the chairmen, I gather are denoted by an asterisk; is that correct?

A Yes.

Q Each of these committees has—

A Has a chairman.

Q Where there is a chairman is shown by an asterisk; is that correct?

[2097] A Yes.

* * * *

[2098] MR. KRAMER: Thank you, Dean Mirsky; thank you.

Q Now, when we compare the committee listings—when we compare the committee listings in the faculty organization documents, Employer's Exhibit 102 and 103 with the standing committees entitled "Senate Unofficial Committees," we find that there is a duplication.

Are there any—Are there, in fact, separate committees of the faculty and senate committees of the senate or are these committees one and the same?

A No. They are run—They are one and the same. [2099] These are the committees of the faculty.

The senate may have its own committee and established its own committees, but the listing here gives the standing committee of the faculty in accordance with the faculty document.

Q Just so that I am clear on this, then, the committees listed—entitled Employer's Exhibit 102 and 103 on the list that I have in my hand which is Employer's Exhibit 105, are one and the same, there is not—

A They identify the same committees?

Q Right.

A Yes.

Q And to the extent there are additional senate committees they are not identifical in either Employer's Exhibit 105 or 102 and 103; correct?

A Correct.

* * * *

[2103] Q (By Mr. Kramer) Now, Dean Mirksy, in addition to the committees listed on Employer's Exhibit 105, has the faculty at your school had a grade distribution [2104] committee?

A Yes, they had a committee to study grade distribution; yes.

Q Did you have a committee on scheduling patterns?

A Yes. We had such a committee.

Q And on the academic calendar?
A Yes; we had such a committee.
Q And on emergency priorities and budget?
A No; we have a committee which is called the emergency personnel and budget committee.
Q I stand corrected.
A We have such a committee.
Q Would they be fairly called ad hoc committees or special problem committees?
A Yes, they are ad hoc committees established by the faculty.
Q Is there also a bicentennittee of the University, a Dean?
A Yes, there is—there are two bicentennial committees.
There is a university-wide bicentennial committee and then we have an ad hoc committee at the college, a Stern College Committee.
Q And are any part-time faculty members of that ad hoc committee at the college?
[2105] A Yes, one—one member of the college committee is part-time, a Mr.—Professor Michael Hecht, H-e-c-h-t.
Q And he is listed on Employer's Exhibit 100, is he not?
A As a part-time faculty member; yes, sir.
Q Dean Mirsky, let us turn to the Committee on Academic Standards for a moment.
That is listed, is it not, on Employer's Exhibit 105?
A Yes, it is.
Q Does that committee actually meet?
A Yes.
Q About how often? How often last year, the last academic year?
A I'd say in the last academic year the committee probably met seven to eight times.
As of this current semester to my knowledge it has met some three times.
Q Now, this committee, could you tell us what it does?
A Yes.

Its function is to be concerned with the maintenance of proper academic standards at the college.
[2106] It concerns itself with such matters as review of cases of students whose academic performance has dropped below a minimum level and determines whether or not they should be placed on probation, whether they may be continued at the college or be asked to withdraw from the college.
They concern themselves with such matters as final examinations and course and any other such matters that may come up to them.
Q Would it be correct to say Dean Mirsky, that this committee decides whether a student is to say or leave in terms of his academic record?
A Yes, if a student record is not acceptable in the view of the committee, they will ask the student to withdraw from the school.
Q And this committee consists of you and six full-time faculty members appointed by you?
Is that right?
A Yes. And representatives of the office of the Registrary and the office of the student services.
Q These six full-time faculty members are appointed by you, are they not?
A Yes, they are.
[2107] Q Now, if a student is told to leave the university, the university would lose the income from that student, would it not?
A I presume the student would no longer pay tuition. Yes.
Q Dean Mirsky, have you ever overruled the determination of the Committee on Academic Standards with respect to the termination—I don't want to use the word "expulsion," but the termination of a student?
A No, I have not.
Q Now, let us turn to the Committee on Curriculum?
A Yes.
Q Does that committee consist of the department chairman and yourself?
A Yes. And a representative of the office of the Registrar.

Q Now, does that committee meet?
A Yes.
Q Approximately how often?
A Three to four times a year.
Q What is the function of this committee? What does it do?
A It reviews the curricular offerings of the college, makes recommendations to the faculty as a whole as to any changes that ought to be made [2108] in our offerings, in our programatic offerings, in matters affecting requirements for graduation, recommendations to institute a new major or discontinue a major, to pass through this committee and on to the faculty.

Changes in requirements, whether departmental requirements or college-wide requirements for graduation have to pass through this committee.

Q Dean Mirsky, can a course be added at your school or eliminated at your school without the approval of this committee?

A The committee has delegated to the office of the dean the right to approve the addition of new courses within a department and the dean is given the responsibility of determining whether or not this change, as—adding a course or possibly dropping a course which is less significant, in any way affects any other department or goes beyond a simple departmental decision.

If in the opinion of the department chairman and the office of the dean this is an internal matter within a department, then the dean may approve the institution of the course and report periodically to the committee on curriculum for such changes.

[2109] Q Otherwise—.

A Id it is felt goes beyond the limits of the department itself, then that must come before the curriculum listed.

Q And if it goes beyond the limits of the department itself, I assume the course or program cannot be added or deleted without its approval; is that correct?

A Correct.

Q Has this committee in fact dealt with the deletion of an education program at your school, Dean?

A Yes, it did.

Q Would you tell us about that, Dean Mirsky, tell us whether—when this happened and then describe the events as they transpired.

A It is a painful chapter for me.

In about the year 1969, 1970, the academic year 1969, 1970, when I was only one year in the—in the position of dean at Stern College, I reviewed the programs at the college and I recommended to the Committee on the Curriculum that for whatever reasons I thought cogent we eliminate an education major at the college.

The curriculum committee supported [2110] me and we began to eliminate the program.

We then went on report to the faculty.

The faculty debated the issue and reversed the decision and so I had to reinstitute a—an education major at the college.

Q You wanted to eliminate?
A Yes.
Q And the curriculum committee wanted to eliminate; is that correct?
A Yes, which they had voted to eliminate.
Q And that was on the vote of the faculty; was it not, Dean?
A Yes.
Q By the way, Mr.—Strike that, please.

Now, do you have a committee on admissions?

A Yes, we do.

Q And that is listed, of course, in Employer's Exhibit 105; is it not?

A Yes, it is.
Q Does that committee actually meet?
A Oh, yes.
Q What does it do?

A It sets standards for admission into the college [2111] and then reviews applications for admission and determines which students shall be admitted and which students shall not be admitted to the college.

Q What do you mean by "sets standards," Dean Mirsky?

A Well, there are two kinds of standards that would be set.

One would be quantitative and one would be qualitative, so that we—there is a basic statement about what are the minimum requirements that the faculty—faculty would expect a student who is admitted to the college to have, and then either directly or by delegating its authorities to the Office of Admission or to other members of the faculty or even to students reviews are made of the applications that are presented, the documents that are presented in support of applications for admission, and a decision is made on whether the student should be admitted or not admitted to the college.

Q You told us they set a qualitative standard, students who do not meet that standards are not admitted.

Is that a fact?

A Well, no one factor in itself is accepted.

If a student should not—as I understand it, the functions of the committee, if a student [2112] does not meet without question all of the qualifications, qualitative or quantitative, then that must be brought to the committee, as a whole, and they review the total application and make a decision.

So that they may in their judgment recommend the admission of a student who perhaps has not met the minimum quantitative statement.

Q But the decision is yours—is that of the committee, I take it?

A It is the committee's decision; yes.

Q And if a student is not admitted to the college obviously he does not pay tuition to the university; is that so?

A Yes, unfortunately.

Q So that the number of tuition-paying students is determined by this committee of the faculty; is that right?

A Yes. In a way.

Q In essence—

MR. SCHECTMAN: Could I have that question read back?

I'm sorry, the last question and answer.

HEARING OFFICER: Could you repeat the question, please?

(Record read.)

[2113] Q (By Mr. Kramer) On Employer's Exhibit 102 on page 3, reference is made to the Committee on Promotions; is that correct?

A Yes.

Q And is that committee also listed on Employer's Exhibit 105?

A Yes—it is.

Q That committee, I take it, is an elected committee; is that right?

A Yes, it is.

Q Would you tell us what that committee does?

A The committee receives requests for promotion by faculty members or concerning faculty members from lower rank to an upper rank, reviews those requests and makes a recommendation on whether or not that request should be granted, which then I as the dean forward to the office of the president through the vice president for academic affairs to which I may or may not add my comments.

Q Now, Dean Mirsky, has this committee, during your term as dean, recommended that certain faculty members not be promoted?

A Oh, yes.

Q Have you accepted that recommended?

A Yes.

[2114] Q In other words, you have not provided a contrary recommendation in those cases?

A No, I have not.

Q And was that recommendation accepted by the vice president of academic affairs on behalf of the president, and when did not have a vice president of academic affairs -y the president directly?

A Yes.

Q In all cases that you remember.
A Yes—yes.
Q Now, has that committee also made positive recommendations with respect to promotion?
A Oh, yes.
Q Have you accepted all of those recommendations?
A Yes.
As far as I can remember I have approved—recommended whatever the faculty committee recommended.
Q And have those recommendations in fact been approved?
A The great majority of. Not in every single case, no.
Q But in the great majority of cases?
A Yes.
Q And that is by the president of the institution or his delegate, is that so?
A Correct; yes.
[2115] Q Now, let us turn for a moment to Employer's Exhibit 105.
There is a committee there called the Shape Major Committee?
A Yes.
Q Could you tell us what that Shape Major Committee does and how it came to come to—came into existence?
A Yes. The Stern College is a small, comparatively speaking, small liberal arts college and therefore cannot offer as full a range of majors in accordance with the requirements set forth in the faculty document for the development of departments and majors and in accord with the financial commitment that must be made to support such a major.
The faculty, therefore, on recommendation of the Committee on Curriculum instituted what we call a Shape Major.
In a simplified way that might be said to be a custom-tailored major, that if we do not have a formally structured major at the college which a particular student would like to pursue, she can solicit among the faculty to see if there is a faculty member who will review with

her what her desires are and if she can find at least one faculty member who she can [2116] convince that what she has in mind is a respectable, acceptable, feasible undergraduate liberal arts major, he helps her draw up a formal request which contains an allocation of what course she will take, what the goals of that major are, and so on.
Under the regulations passed by the faculty in addition to having an individual sponsor, each such request countersigned by a single sponsor must be reviewed and approved by a committee of the faculty to be as much as is possible representative of various disciplines or major groupings within the liberal arts curriculum.
The Shape Major Committee is such a committee, and students who have a desire for one of these custom-tailored or Shaped Majors presents this to the committee which reviewed the requests and then approves or disapproves.
If the committee approves the request, then that becomes the official major requirement for the student and if the student wants to earn a degree when she applies for the degree her record is checked and if she has met all of the requirements of this major as she would have had to meet the requirements of one of our established majors, she is awarded the degree.
Q And if the committee disapproves?
[2117] A Then she cannot have that major at the college.
Q Then would that affect whether she stayed at the college, possibly?
A Yes, oh, yes. If there have been—in my memory I can think of two students who withdrew from the college because they felt that they could not get what they wanted at Yeshiva.
Q And the tuition of those students was lost to the University?
A Yes.
Q Now, let us turn to the committee on academic statistics which is listed on both Employer's Exhibit 105 and Employer's Exhibit 102.
Would you tell us what that committee does?

A Yes. It is a committee established by the faculty to which the faculty refers requests for certain studies in which it feels it needs to have analysis of the statistics involved.

It may have to do with grading practices and distribution of grades.

It may have to do with registration and admissions patterns.

If the faculty is interested to discover patterns in attrition rates they will ask one of the standing faculty committees or an ad hoc [2118] committee to look into this matter and ask the committee on statistics to serve as a kind of service committee to do the necessary statistical studies that it needs in order to support its studies and help it arrive at certain conclusions or decisions.

Q You have told us, Dean Mirksy, about a faculty committee on grade distribution which is not listed on Exhibit 105 or Exhibits 102 or 10—correction, 102 and 103.

Would you tell us what that committee does?

A Well, it is not a standing committee. In other words, what it did.

It was an ad hoc committee that is no longer in existence.

Q What did it do?

A It studied the distribution of grades at various levels and tried to assess what those grades meant, as far as student evaluations are concerned, and then recommended—actually recommended a change in our grading system.

Q To whom?

A To the faculty.

Q And was that change approved by the faculty, Dean?

[2119] A Yes. We had a grading system which was a little system where grading A through F with pluses and it recommended a change for the introduction of minuses as well as pluses and then asked the committee on standards to review the implications of that in student evaluation.

* * * *

[2120] Q (By Mr. Kramer) Dean Mirsky, the faculty and you thought it important enough to establish a committee on grade distribution, did you not?

A Yes, we did.

Q Now, why did you establish that committee?

What was the real cause of your establishing that committee?

A The committee was established because there were students and faculty members who felt that they wanted a more exact system of, or at least wanted a more exact system of or at least wanted to consider the advisability of having a more exact system of evaluating students on a grade point scale, to help better discriminate among students in any give courses and in giving them a grade so that they could better compare one student to the other and project that [2121] comparison as—which is essentially what grade is on the student's permanent record.

Q At your school, Dean Mirsky, who determines what type of grading system will be in effect?

A The faculty.

Q Dean Mirsky, how long have you been in education?

A From 1946 on.

Q And you have been at Yeshiva College for 25 years?

A For longer.

Q Yeshiva University, rather.

A Yeshiva University for more than twenty-five years.

* * * *

[2122] MR. KRAMER: A University—Let us start this way:

In an automobile factory a supervisor can have seven employees under him and be a supervisor within the meaning of the Act.

A buyer in a meatpacking plant can have authority to buy five thousand dollars worth of meat on a discretionary basis and be a managerial employee, within the meaning of the Act.

A university, such as our university, makes no automobiles, buys no meat, makes no profit.

The tests of determining what is a managerial employee or managerial person in a profit-making context therefore be largely inapposite to a university.

In a corporation there is little question that a sales director or a merchandise—a merchandising vice president or a merchandising executive is a managerial person.

In a university we don't have merchandising directors and sales directors.

Our products are the courses that we offer.

I use that in the best sense of that [2123] word, I am not meaning to demean the university but our product, what we sell although it is not for profit, are courses, major courses, programs, individual holdings, interdepartmental offerings, interscholastic programs, that kind of thing.

Our customers and who they are, not meaning in any crast way are our students.

How we attract students, whether we hold students, the standards to which students are held to are in our view not only educational—of course they are educational, but they are also managerial.

What course we hold out and who decides that, of course, it is educational, but the decision-making process is a managerial process as well.

You cannot divide them apart.

In this case, Mr. Hearing Officer, it is our intention to give the Board a record that leads them to understand what managing an educational institution is all about.

It is more than who is going to pay what to whom or how many dollars are going to be available in one school or in another school.

That is part of management.

It is a part that is looked at today, but there is another very broad part of management, the [2124] part to which I am alluding.

Now, if that part is ignored, what happens is a union structure, a labor organization structure, a collective bargaining structure will like as not be superimposed over the managerial structure of the institution.

Textron teaches that that cannot be done even if there is no conflict of interest and we submit, as we will show in our brief here, that there would be plenty of conflicts of interest but we no longer have to show that.

All we have to show is that these people are managerial; managerial employees have no rights under this law.

They have no rights any more than supervisors have under this law and they have no right under state laws as well.

Now that is what this case, a good part of it anyway is all about, and I don't want to make any speeches because I don't think you proved these points with speeches, you prove them with testimony, and we are going to have witnesses come in here and testify as to what the facts really are and we are going to present those facts to the Board.

[2125] That is why we are asking Dean Mirsky the questions we are asking him because we think the only way we are going to prove this to this Board is to finally make these points plain in testimony.

* * * *

[2129] Q (By Mr. Kramer) based on your experience, Dean Mirsky, is the particular grading system that the college has, does it affect whether students are attracted to it or not, and would you please, in answering the question, please state the basis for your experience?

A Well, first let me state, that the grading system that is—obtained at any given college, is published in the catalog of that college and is part of the [2130] general information which is conveyed to a student who seeks information about the school by reading the catalog.

Q I show you Employer's Exhibit 22A, in evidence, more particularly page 39—

HEARING OFFICER: In evidence in which proceeding.

MR. KRAMER: In this proceeding as it is Board Exhibit 2 has this exhibit in it and it is denominated therein Employer's Exhibit 22A and more particularly page 3.

Q Is that the grading system to which you are referring?

A No, this grading system refers to the grading system at Yeshiva College.

The grading system in effect at Stern College would be found on pages 96 of that catalog.

Q In other words, a student before he comes to Stern College is told what your grading system is, isn't he?

A Yes.

MR. SCHECTMAN: I object to the leading nature of that question.

HEARING OFFICER: Well, I am going to [2131] overrule the objection on that point.

Q Well, would you continue your explanation, please?

A Yes. The student is told the grading system, the significance of the symbols and is even—has spelled out for him or for her in the case of Stern College the actual numerical equivalent and significance of those literal grades that we use in identifying the grades of the students.

I would say that for some students this has significance.

Q Well, how do you know that, Dean Mirsky?

A We know that because we do get inquiries about the grading system.

We are often asked whether we offer certain grading options to students, whether they can, for example, have available for them at Stern College what is often referred to as the PN option.

Q What does that mean?

A It is a practice which is developed among many universities to offer students an opportunity to enter a course with the understanding that instead of being graded on a calibrated scale, they can get either a P or a failure, a—that will be called a FF option or they have the choice of having the course [2132] entered on their record with a P indicating that they passed the course or with an N which would indicate that they did not receive credit for the course but makes no statement about whether or not they passed or failed the course and other advance of that which in the opinion of some students is

quite significant in their decision whether to come to the school or not.

Q A decision as to what grading formulation you will have at Stern College of Women belongs to the faculty I take it?

A Yes, the faculty determines what the grading practice is and what the grading scale is at the college.

If you will permit me to add?

Q Okay.

A I would say from the point of view of the college the grading system is of even greater importance from the point of view of the retention of students.

Q What do you mean by that, Dean Mirsky?

A The student enters the college and tries to do as well as is possible in the college and hopes that the grades will reflect positively on the students and increase—

MR. SCHECTMAN: I object, at this point in that the general—I mean, there has to be [2133] some proviso. This generalization about the student—I am not quite sure—I am a little confused by this line of testimony as to whom or to what has been referred here?

THE WITNESS: Students at Stern.

MR. SCHECTMAN: This is a model student or expected student should be—

MR. KRAMER: I think he is answering—he is responsive to the question, and that the kind of clarification that counsel seeks to elicit would be best elicited on cross examination when you have ample opportunity to ask this witness about these areas should he choose to do so.

MR. SHECTMAN: Well, I will withdraw the objection.

MR. KRAMER: Mr. Hearing Officer, would you read back to where the witness stopped.

HEARING OFFICER: I won't, but I am sure the reporter will. Will the reporter do it?

(Record read.)

A (Continuing) And increase the students prospects for either continued education in graduate school or for pursuing a career or a profession.

Therefore, tje lomd pf tradomg suste,. [2134] the standards which are exercised by faculty in assigning grades to the students are very help—very significant and important to the student.

At Stern College specifically, for example, in order to continue as a student a student must maintain what we call a 2.0 quality index.

Since these letter grades with the pluses and the minuses are translated into actual percentage points and then these percentage points are used to determine the students index in terms of a scale of zero to 4, the grades are important and students who fall below that level, as I have indicated, can be asked by the committee on standards to leave the school, not continue their education.

It often happens, and we have had that in our experience, the students feel that because of our grading system or the grading standards maintained at the college they—their records are not as good as they would like it to be and they sometimes feel that they can do better by transferring to a different school and so leave voluntarily and they do not need to be asked to leave the school, but they leave voluntarily to improve their chances for admission into graduate school or entry into a profession or career. [2135] Q By the way, who establishes the standards you just referred to, 2.0 standard?

A That is made by the Committee on Standards.

Q When a student transfers voluntarily, I take it the University loses the income?

A Yes.

* * * *

Q (By Mr. Kramer) Now, Dean Mirsky, you told us that there was a faculty ad hoc committee on scheduling patterns.

A Yes.

Q What does that committee do?

Before you answer that question, when did [2136] that committee deliberate?

A It was during the academic year '72, '73 carried over into '73, '74 at which point we instituted new scheduling patterns.

Q Now, when did the grade distribution committee deliberate?

A That was back in 1970, 1971, 1972.

Q With respect to the scheduling pattern committee, would you tell us what it did?

A Yes.

If you will permit me a word of explanation, it—the number of credits that a course carries depends upon the number of hours that the course meets per week and the kind of work that is done in that course.

So that courses have various numbers of meetings during the week depending upon the number of credits that the faculty—that is assigned to that course.

Most of the courses are three credit courses and have to meet three times a week.

Some credit courses carry two credits, some carry four or five credits and some we always have to schedule course for a [2137] different number of meetings every week.

When the courses are eccentric in their patterns of meeting during the week, it makes it difficult for a student to fill out a program in which the student can take all of the courses that she wants, adding up to the number of credits that she needs in order to graduate within the stipulated or required—desire number of semesters.

To ease the difficulty we therefore tried to study these scheduling patterns and establish fixed patterns for meetings so that certain course would meet on fixed days during fixed hours of the week to eliminate eccentricities from the scheduling pattern and the committee studied these patterns, drew up about six or seven different models of suggested patterns that could be considered by the college, presented these to the faculty, the number of meetings, they went through each possible pattern and finally approved one pattern of courses.

Q All right.

The faculty approved?

A Yes.

Q Just as they approved the grade distribution change; is that so?

A Yes.

[2138] Q By the way, Dean Mirsky, did you have the authority to veto these scheduling pattern changes?

A Yes, I would have that authority in a sense I would probably have been able to raise certain administrative objections, if it were really—I felt adversely affected the operations of the college and go to the faculty and ask them not to do certain things.

Q Asked them?

A Yes.

Q Could you have ordered them not to?

A I think if I were to—it is a matter of judgment. I would certainly have to appeal to support from the vice president for academic affair and the president to make a final decision.

I don't know that I could personally say "No" to a faculty decision on these matters.

Q Is that also with respect to grade distribution?

A Grade distribution, it is a matter of my own judgment, grade distribution I think much more clearly belongs to the jurisdiction and final decision of the faculty than certain decisions on how many, you know, hours per day the college can afford to be in operation and so on.

It brings in other considerations and we have to bring in other officers.

[2139] Q Now, let us turn to the ad hoc committee on academic calendar. When did that committee meet?

A That committee was actually developed in 1972, 1973, I believe.

At that time certain questions arose as to when sessions should begin, the academic year should begin, and when the academic year should end and then the distribution of holidays and so on through that academic year.

And there were any series—of meetings—models, suggested, given the restraints that are placed upon the college b- the regulations of the Commissioner of Education of the New York State Department of Education, we can divide our own academic calendar.

Q To whom did the committee report?

A To the faculty.

Q Does the calendar require approval of the faculty.

A Actually, the line in that situation was that the faculty was asked to set up its calendar, the calendar that it wanted to, and then there was a request that the undergraduate colleges, Yeshiva College and Stern College for Women, try to develop a unif-rm calendar, and so this was directed to the [2140] academic counsel of the undergraduate schools with approval asking the Yeshiva College to give its academic calendar and to ask the academic council to approve the basic principles on uniform academic calendar.

So that the Stern College faculty decided what patterns it would like to have for Stern College and then asked its representatives to try to work out with the Yeshiva College a unif-rm calendar.

Q Now you told us there was a committee on personnel and budget. Is that right?

A Yes.

Q And what was the function of that committee?

A It was a committee created by the faculty as a result of and perhaps a response to the growing awareness of budgetary strictures that were coming in to play at the college, and the faculty created this committee to consider the implications of budgetary strictures, and retrenchments and to try to help develop procedures and steps, to take steps which allowing for the adjustment—budgetary adjustment would also affect as little as possible the academic offerings of the college, and where the academic offerings of the college were to be affected by budgetary considerations, [2141] to help develop a set of priorities or steps that could be taken towards this end.

* * * *

[2144] Q (By Mr. Kramer) Now, Dean Mirsky, is it correct that the Committee on Personnel and Budget was created in response to a financial crisis at the institution during 1971, 1972?

A Yes.

Q And 1972, 1973?

A Yes, that is correct, and the committee is still in existence.

Q Now, referring to this exhibit?

A Yes.

Q Dean Mirsky, as a basis for this question, but not necessarily as a limitation to its answer, would you tell us what items are what—what discussions were finally made by the Committee to help alleviate the crisis at the school and whether they were in fact accepted?

A Well, I discussed this and some of the other items with the committee.

They felt that all of these things that they had developed as a result of their meeting ought to be taken into consideration; to a degree the [2145] rescheduling or the Committee on Study Scheduling Patterns is a response to one of the recommendations made by this committee in scheduling that we reinstitute or we restudy our scheduling patterns to see what we could do to help reduce further need for extra sessions and make it easier for students to get the courses that they wanted.

And we did look in to some of these other programs which are now—have been instituted such as joint programs with the graduate schools to offer advance courses through the combined undergraduate, undergraduate offerings at the advanced levels and we have eliminated what is implied here, some of the electives which existed in such departments as Art and Music, which we have cut back on and no longer offer because they are not majors, we never had a major- they were service courses and so we retain those which are necessary for meeting college requirements and cut down on the number of electives over—offered in some of these areas.

Q Would it be correct to state that the recommendations of this committee were generally effective?

A I think that they did generate thought and led to some actions; yes.

* * * *

[2149] Q (By Mr. Kramer) Now, Dean, referring to Exhibit 105, to whom does the Committee on Academic Statistics report?

A To the faculty.

Q And the Committee on Academic Standards?

A To the faculty.

Q The Committee of Admissions?

[2150] A To the faculty.

Q And the Committee on Awards?

A To the faculty.

Q And the Committee on Curriculum?

A To the faculty.

Q The Library Committee?

A To the faculty.

Q The Faculty Welfare Committee?

A To the faculty.

Q The Shaped Major Committee?

A That generally does not report to anybody. Simply approves the programs.

Q And the Committee on Promotions?

A To the faculty.

Q With its recommendations; is that so?

A Yes, a report on what business it has done during the year.

Q Does it seek approval of its recommendations from the faculty? Or does it just report them?

A Just reports.

Q All right.

Now, to whom does the Ad Hoc Committee on Personnel and Budget report?

A To the faculty.

Q And on grade distribution?

[2151] A To the faculty.

Q And on academic calendar?

A To the faculty.

Q And on scheduling patterns?

A To the faculty.

Q And to whom does the Committee on Bicentennial report?

A To the school committee.

A Well, that is—that committee is just in formation and it is in formation at the request of the vice president for academic affairs, so that it would probably report on its activities to the faculty rather than at the behest of the vice president of academic affairs.

Q You have told us that the faculty meets at least four times a year.

A Yes, it is mandated to meet four times a year and may meet more.

* * * *

Q Now, when you speak of the faculty, are you speaking of the Stern College Senate or is that a [2152] separate body?

A The Stern College Senate is a separate body.

* * * *

Q Would you tell us, based on your experience at the school, Dean Mirsky, the kinds of things that the Stern College Senate does?

A Under the Constitution of the Senate, all matters affecting the affairs of the college are the proper matter for consideration and action by the Senate.

The only thing that the senate does not take up are matters pertaining to specific individuals.

Q When you say "all matters, Dean Mirsky, would you give us some illustrations of the points—the lines of things that the senate has taken up over the last year or so?

[2153] A Yes. Over the last year or so the senate has forwarded to the faculty a recommendation on the change in the foreign language requirement for the degree at Stern College.

It has sent to the faculty requests for changes in the scheduling patterns.

It has under consideration now a request or a—I don't know what the proper word would be, but a resolution asking that we change the science requirement at the college.

It has reviewed and expressed its conclusions concerning programs such as a—what we call a cooperative program that we have had at the college.

It has worked with the Committee on Admissions to determine whether it has any resolutions that would like to pass concerning admissions and it has raised certain matters having to do with student life at the college.

Q Now, the recommendations that you have described, the senate to have made, were made to the faculty; is that correct?

A Yes, under the constitution of the Senate any resolution which calls for action by the Senate must go to the faculty which can approve it, not approve [2154] it or reject it.

If it does not—if it actively approves or does not disapprove within a stipulated period set forth in the constitution, that recommendation—that resolution automatically becomes binding on the college.

* * * *

[2156] Q Do students have a vote in the faculty?

A No, they do not.

Q Do they have a vote in the senate?

A Yes.

Q Now, Dean Mirsky, let us turn to Employer's Exhibit 100 in evidence and more particularly to the chairmen listed on that exhibit.

Are these chairmen elected?

A No, they are appointed.

Q How are they appointed?

A They are appointed upon my recommendation by the president.

Q Dean Mirsky, before appointing a chairman, do you consult with the members of the department as to who that chairman will be?

A I have not done so; no.

Q And you have appointed chairmen?

A Yes.

Q Is a vote held in the department as to who will be the chairman?

A No.

Q It is your appointment—recommendation of appointment to the president?

[2157] A To the president; yes.

Q Now, do chairmen have reduced load at your school?

A Yes, they can have a remission of teaching or workload.

Q And what is that remission?

A Remission of one quarter of their teaching time.

Q And do they in fact have such a remission?

A Yes.

Q What is considered to be a full-time load at your school?

A Twelve contact hours per semester.

Q Or equivalent?

A Or equivalent.

Q What is meant by "the equivalent"?

A Anything that is approved by the college as meeting that workload requirement. It can be a remission as in the case of a chairman for services rendered, administrative services rendered to the college.

It may on occasion be a remission into permission to carry on research or some other activities of that sort.

Q Now, would you tell us, Dean Mirsky, what role, if any, is played by the chairmen of departments in your [2158] school with respect to the hiring of full-time and part-time faculty?

A Yes.

When there is a need to add staff to the faculty generally a need called to my attention by the Chairman of the department, we consult as to what the departmental needs might be and what the budgetary possibilities are, then the Chairman and/or I, interview people for the position.

We then sit and consult together and upon recommendation of the chairman we agree on appointment, we then pass that recommendation asking for approval to the office of the president.

Q Dean, have you ever appointed any full-time or part-time faculty member who was not acceptable to the chairman of a particular department?

A No.

HEARING OFFICER: Excuse me.

When you talk about discussing with the chairman the need for a new appointment, do you discuss a particular person or a position?

THE WITNESS: No; first we discuss the position.

In other words, is there a need for an additional person in order to fulfill the staffing requirements for the department.

[2159] That will be based on the question of registration, the need to cover courses.

Since we have a workload, maximum workload for faculty of 12 contact hours or their equivalent, if the department who wants to offer a number of courses which add up to more than the total available to them because of the number of people they have, they would then ask for additional staff to meet those requirements-

HEARING OFFICER: Do you seek approval of the position before bringing in the name of a person, or do you combine the two when you make your request to the—I guess the president, you said.

THE WITNESS: Yes, well, I report to the president through the vice president for academic affairs, so, normally, I would take this up with the vice president for academic affairs and we discuss the need to add people and then if we should be told to explore further, we then begin to talk about individuals.

Q (By Mr. Kramer) Dean Mirsky, your testimony applied to a fulfilling of vacancy; is that correct?

A No. Even for adding people into—for not to fill a vacancy, but simply to augment the strength of the faculty.

[2160] Q But it covered both the filling of a vacancy and additional personnel?

A Oh, yes.

Q All right.

And the chairman's role in terms of selection of the particular individual is the same in either case, I would assume?

A Yes.

Q Now, you have actually had discussions with chairmen on the subject of hiring, have you not?

A Oh, of course.

Q During those discussions was particular—what particular chairman—chairmen—speak for themselves, as administrators or were they reporting to you a consensus of their department as to who should be hired?

A Well, in my discussions with the chairmen I talk to the chairmen as the decisionmaking person within the department.

If they, on their own, may or may not have discussed that with other people, I don't know. It is not required nor do I inquire if they have.

Q And in their discussions with you I assume there was no reference to having such discussions with others?

A No.

[2161] Q Now, do your chairmen also play a role in connection with the termination or non-reappointment of probationary full-time faculty and also part-time faculty?

A Yes.

Q Would you tell us about that, please?

A Yes.

Q Would you tell us about that, please?

A Yes. One of the functions which the chairman is to fulfill is to evaluate and assess the performance of faculty members and I meet fairly regularly with all chairmen to discuss these matters, particular faculty members who have been most recently appointed, and we try to evaluate to come to some understanding of their place and their role and how well they are fulfilling the needs and expectations of the department.

And we then try to arrive at a decision as to whether to continue those faculty members or to terminate their appointment.

Q Have chairmen listed on Exhibit 100 actually made recommendations to you for the termination of faculty members, or the non-reappointment of faculty members?

A Yes.

Q All right.

[2162] Have those recommendations generally been accepted by you?

A Generally, yes.

Q And have they made recommendations for the retention of probationary full-time faculty for that matter part-time faculty?

A Yes, yes.

Q Have those recommendations been accepted by you, Dean?

A Yes, generally.

HEARING OFFICER: Excuse me.

On the termination or non-appointment, is that a decision that you make personally or is that something that you take up with the vice president or president of the school?

THE WITNESS: Well, all appointments at—at the University are full-time people, personnel are made by the office of the president.

However, they are based on the recommendations of the dean and the school which we forward to the president.

So when an appointment has to be made, the official letter of appointment goes out from the office of the president, either signed by the president or by whomever he may delegate to sign the letters [2163] for him.

Possibly the vice president for academic affairs.

On termination, the letters have been, at least in Stern College, have been sent by me.

Q Focusing, Dean Mirsky, on the hiring process—

A Yes?

Q —is it usual for the president of the university to interview a new hiring into your school?

A Well, in my experience, this has never occurred.

Q Is it usual for the vice president of academic a-fairs to interview a new hire in your school?

A No.

Q Would it be correct to state that the approvals by the president or vice president of academic affairs of the recommendation that you make upon the recommendation of the department chairmen or routine?

A Yes, I think that would be a fair statement.

Q All right.

Now, you have told us that you generally accept the recommendations of the chairmen concerning the termination or non-reappointment of full-time faculty or part-time faculty; is that correct?

[2164] A Correct.

Q Was there a situation in which you disagreed with the chairman—a particular chairman?

A Yes, there was one such case in particular in which a chairman and I disagreed and could not come to a consensus.

Q Would you tell us about that, please?

A Yes.

This was in approximately '70, '71, when—because of a shrinking budget and falling registration we had to release some people from our staff.

One of the departments thus directed was the Department of History, and I informed the department chairman that we would have to cut the staff, full-time staff in the History Department by one person.

We then discussed this and the chairman then felt that one of the full-time members of the department should be terminated and I disagreed.

I felt that in the overall interest of the college and the balance and in view o- our needs a different member, full-time member of the department ought to be terminated.

We discussed this for a while, came to no amicable consensus. I then forwarded to the [2165] president my recommendation, and the Chairman of the department forwarded her recommendation to the president.

The president sustained me. The Chairman of the department then appealed the decision to the University Review Committee which is a committee that exists at the University.

Q Appealed the decision of the president of the institution; is that correct?

A Yes.

Q All right.

Then tell us what happened.

A Well, the University Review Committee met and heard the case.

I know since it was reported to me and I saw their report, that the chairman was invited to appear before them and give her presentation.

I know that I was invited because I was there, and I presented my side.

The Review Committee considered the case and then issued a—a report with its conclusions which it sent to the president.

Q Is this university faculty Review Committee made up of administrators?

A No.

[2166] This committee is composed of faculty members from each of the academic units of the University elected by each of those units.

Q And is this university Faculty Review Committee provided for in the faculty hand book which is Employer's Exhibit 51 appended to Board Exhibit 2?

A Yes, there is a statement describing the function and the constitution of the university faculty review committee in the faculty hand book to which you refer.

* * * *

[2167] Q Dean Mirsky, I show you Employer's Exhibit 109, marked for identification, a document entitled Yeshiva University Faculty Review Committee by Professor Doris Goldstein, Chairman of the Department [2168] of History—

A I think you skipped that.

Q Correction; let me correct that.

Q I will start again. Yeshiva University Faculty Review Committee, in the matter of the appeal by Professor Doris Goldstein, Chairman of the Department of History, Stern College, on behalf of Dr. Carole Gruber, May 1, 1972.

Are you familiar with this document, Dean Mirsky?

A Yes, I am.

Q Is this in fact the report of the Faculty Review Committee in the matter you just discussed?

A Yes.

Q The conclusions of that Faculty Review Committee can be found on pages 4 and 5 of this document; is that correct?

A Yes.

* * * *

[2169] BY MR. KRAMER:

Q Now, Dean Mirsky, are you familiar with how your faculty is evaluated?

A Yes.

Q Would you tell us how that process goes on?

A Well, the manner in which it is evaluated is something that I mentioned before, that I meet with the Chairman and we discuss the faculty members and conclusions

about to—how they are fulfilling the needs and the expectations of the department and the college.

The chairmen convey to me their evaluation. There is no prescribed method at the college by which such evaluations may be made, but [2170] chairmen can use any way that they do, to my knowledge, because it has been so reported to me, some of the chairmen visit the classrooms for—of the faculty members, sit in and try to evaluate their performance that way.

* * * *

[2171] Q Now let us turn to, Dean Mirsky, to tenure.

Would you tell us what role your chairmen play in tenure decisions at your school?

A When a decision must be made on the granting of tenure to a member of the faculty, the chairman of the faculty—the chairman of the department is—submits a recommendation as to whether or not tenure should be granted to that individual.

That recommendation is submitted to the office of the president, through me, and the decision is then made in the office of the president.

Q Now, is that recommendation made as a consensus recommendation of the department as they would say, or is that recommendation made, to your knowledge, by the chairman himself, individually?

A I don't know that I would have knowledge of it but it is not—a consensus is not required. The department chairman who must submit the recommendation if a department chairman wants to consult with other members of the department, there would be no reason why I presume he couldn't, but the responsibility and my expectation is that I will get the recommendation of the chairman as the chairman of [2172] the department.

Q And is it presented to you in that fashion?

A Yes.

Q Have chairmen come to you and said, My department is divided, I have no recommendation to make"?

A No.

Q Not at any time while you have been dean?

A Not in my experience, no, sir.

Q And you have not gotten minority or majority reports or anything of that type from a department, have you?

A No.

Q Are the chairmen's recommendations for tenure in favor of tenure generally accepted by you?

A Generally yes.

Q And are they generally approved by the president of the institution?

A Yes, they have been in the past.

Q Have chairmen recommended negatively with respect to tenure?

A Yes, they have—

Q And have those recommendations generally been accepted by you and passed along to the president with your endorsement?

A Yes, they have.

[2173] Q And have they generally been approved by the president?

A Yes.

Q Is it a fact, Dean Mirsky—I think it is in the record but I want to be sure—that the chairman together with yourself make up the Stern College Promotion Committee?

A Yes, that is as it is stated in the faculty document—could you repeat that, please?

Q That the chairmen together with yourself, make up the Stern College Promotion Committee.

A No, not the Promotions Committee.

The curriculum committee is made up of the chairman. The Promotion Committee is elected by the faculty.

Q Now in connection with that Promotions Committee, sir, does the chairman have a function?

A Yes.

Q Would you tell us about that, please?

A Yes.

When a faculty member is being considered for promotion from rank to rank a recommendation of the chairman is solicited.

If it has not already been submitted by the chairman. [2174] Q Do you attend the meetings of that committee?

A Y-s, under the -aculty statute I am the Chairman of the Committee on Promotions and the membership is elected by the faculty.

Q Would you tell the Hearing Officer, what the weight or effect of the chairman's recommendations are within the deliberations of that committee, as a general matter? If that may be done.

MR. SHECTMAN: I ask for direction that the witness not state a conclusion here but state specific facts or occurrences by which such a conclusion as to the weight of anyone's opinion might he.

MR. KRAMER: I think the witness should be allowed to answer the question. I think he has been very responsive.

HEARING OFFICER: That was not an objection, was it?

MR. SHECTMAN: No.

HEARING OFFICER: That was a request?

MR. SHECTMAN: Right.

THE WITNESS: I was going to say that obviously since a decision is made by individual vote of each faculty member, in other words, it is a matter of vote of each member of the committee as to whether to approve or to disapprove a recommendation, [2175] it is hard for me to say how much weight they put in their own minds to any single factor, but, generally speaking on the basis of experience any time that there has been an instance in which a chairman has not recommended promotion, that promotion was not approved by the committee, so I would assume that certainly a negative recommendation carries a great deal of weight in the minds of the committee and a positive recommendation they would weigh with all other factors if they have to take—that they have to take into mind.

Q Dean Mirsky, is there an associate dean at Stern College for Women?

A No, there is not.

Q Is there an assistant dean at Stern College for Women?

A No, there is not.

Q In addition to yourself, Dean Mirsky, what administrative staff do you have supporting you?

A The office of the dean, I have one person who serves as an assistant to the dean and then there are secretarial staff.

Q Are there any other administrative people who help you? At the school, I mean.

A At the school, yes, but not through the office [2176] of the dean.

There is an assistant registrar through the office of the registrar.

There is a director of student services through the office of the vice president of student affairs.

There is someone assigned by the office of student finances to deal with student finances.

There are—there is a director of residence hall assigned through the office of the vice president for student affairs.

There are librarians assigned through the university librarian.

There maybe one or two that I have missed but essentially that is it.

Q Those administrators that you just named, however, function in relation to students rather than to faculty, I take it, for the most part?

A Yes, except insofar as the life of a student touches the life of a faculty member and vice versa.

Q All right.

Approximately how many students do you have?

A Approximately 550.

Q Dean Mirsky, you have prepared Employer's Exhibit 100, [2177] have you not?

A Yes.

* * * *

[2181] Mr.—Dean Mirsky, if the departmental chairmen are held to be non-supervisory or non-managerial within the meaning of the National Labor Relations Act, the supervisory ratio at your school will be about 80-to-100; is that correct?

* * * *

[2185] HEARING OFFICER: The objection has been sustained. If counsel wishes to make an offer of proof, the offer of proof will be accepted.

MR. KRAMER: The offer of proof is that the ratio would be 80-to-1.

* * * *

[2198] Q Are part-time faculty at your school compensated on the basis of honorarium or honorariums?

A No, they are paid a salary.

Q And is there a salary scale?

A There is no fixed salary scale. There are established parameters for payment made to part-time faculty people who were brought in on the staff, depending upon their service, their background, their preparation, their degree of specialization, and so forth.

Q Is that different—go ahead.

A And that will range between the parameters set for each level for the college.

Q Is there a separate scale or range for full-time faculty?

A Yes, there is an established salary scale for full-time faculty.

Q And it is different than the one for part-time faculty?

[2199] A Yes, sir.

HEARING OFFICER: Excuse me.

Who sets the salary within the parameters? Is that somebody whose—is that something that is negotiated when—between the individuals and someone at the college?

A No, the parameters are established by—in negotiation between the faculty and the administration.

The faculty scale is established between the Faculty Welfare Committee and the administration.

HEARING OFFICER: Who decides what to pay a particular part-time individual?

THE WITNESS: You mean within the parameters?

HEARING OFFICER: Yes.

THE WITNESS: Not the parameters themselves.

HEARING OFFICER: No, within the parameters.

THE WITNESS: Oh, this is a determination that is

made between the—you know, it is negotiated, so to speak, when the individual who is to be hired, has to be submitted for approval because in the same way that anybody else who is added to the payroll has to be submitted for approval to the office of the president.

My recommendation is determined by the—my own evaluation and the evaluation of the department [2200] chairman as to the quality of the person involved, whether the demand made by the person is commensurate is what we think we can get from him and if we agree on these figures then I try to get the approval of the university for this salary for this part-time person.

* * * *

[2201] HEARING OFFICER: All right. I am not questioning that. I am trying to get at a point where part-time faculty negotiate their salaries on an individual basis with you.

THE WITNESS: On initial appointment?

HEARING OFFICER: Right.

THE WITNESS: Yes.

HEARING OFFICER: Is that true of full-time faculty also?

THE WITNESS: Yes.

HEARING OFFICER: They also—

THE WITNESS: Any initial appointment is determined—once the decision is that we agree to recommend to the university this person, and that the person should be brought in at this level, in other words, whether it is a full-time or not, if this person, let us say, within a full-time appointment, of course, we give him the rank; let's say that we want to bring someone in who is a full professor, then the negotiation [2202] takes place with the individual within the steps of the established salary scale for a full professor, even though we don't give him that rank, there is a predetermined range that we have of what we can offer and that is—that exists, and then we—we deal with the individual.

Once the individual is put on payroll and then if that appointment is continued into the next academic year, then there is no individual bargaining any more.

It then—the full-time person goes up the scale in accordance with whatever his predetermined is and the part-time person will get whatever allowance is agreed on for part-time people, and that becomes fairly uniform.

HEARING OFFICER: Thank you.

Mr. Kramer?

MR. KRAMER: Yes.

BY MR. KRAMER:

Q Approximately how many of your full-time faculty members do not have tenure?

A About sixty percent don't have tenure.

Q Now, are you familiar with the University's revised tenure regulations which are part of the faculty hand book?

A Yes.

[2203] Q And that hand book is in evidence as Exhibit 51; is that correct?

A Yes, I am familiar with the hand book.

Q And—

MR. KRAMER: For the record, it is in evidence as Exhibit 51 to Board Exhibit 2.

BY MR. KRAMER:

Q Under—In the revised tenure policy, may a full-time faculty member not be tenure eligible?

A Yes.

Q Would you explain how that comes to past?

A Yes. The—Under the University tenure policy, tenure is granted only to people who hold the rank of assistant professor, associate professor or professor.

Members of the faculty who even if they are full-time members of the faculty or hold any other title, such as visiting or research or adjunct to whatever else it may be, are not eligible for tenure.

In other words service within those ranks does not accrue towards credit towards tenure.

Q So that there are people who will be working full time all their time at the University, full time at the University, who are not tenure eligible?

A Correct. Yes.

Q Are part-time faculty tenure eligible?

A No, they are not.

* * * *

CROSS EXAMINATION

[2227] BY MR. SHECTMAN

Q Dean Mirsky, Employer's Exhibit 104 is the constitution of Stern College Senate and Article 2 lists the qualifications for membership, including six faculty representatives.

Are any of those faculty representatives part time faculty?

HEARING OFFICER: What exhibit is this? 105?

MR. SHECTMAN: 104.

HEARING OFFICER: 104?

MR. SHECTMAN: Yes.

A These—The faculty representatives on the Senate are elected on a rotating basis in accord with the stipulation in the constitution.

On the list that I have before me in Employer's Exhibit 105 there are the six members of the faculty who are listed as representing the faculty on the senate this year and looking through those I would say that none of those listed are part-time people.

There is no stipulation, as I see it, [2228] in the constitution that says that a part-time member cannot be elected by the faculty to serve.

Q On Employer's Exhibit 105, there are two faculty members who are part-time listed with membership on the committees listed on that exhibit.

Each one of those faculty members is listed on Employer's Exhibit 101 as having an affiliation with an outside institution.

Could you explain in more detail what is meant by that?

A What is meant by what?

Q An affiliation with an outside institution. I think listed is Baruch College, Fairleigh Dickinson, et cetera.

A Yes.

What I have listed there is those people who are teaching part time at Stern College who, to my knowledge because they have so informed me or because we have it in

the record, hold appointments at some other institution and so Dr. Samuel Bernstein whose name appears on Employer's Exhibit 101 is a full—holds a full-time appointment at the Bernard Baruch College of the City University of New York and teaches part-time at Stern College.

Q Is it possible that there are other part-time faculty members who may not have informed you with [2229] affiliations without outside institutions?

MR. KRAMER: I must object to these questions.

The witness has testified that, to his knowledge, these are the—these are the only ones.

I think implicit in it wasn't he—was he nominally present, omissions about these matters.

Is it possible? Anything is possible.

HEARING OFFICER: Sustained.

BY MR. SHECTMAN:

Q When a part-time faculty member is hired, it required that he indicate to you or to any other university officials whether he has a full—an affiliation with an outside institution?

A At the time of initial interview, yes. We ask the faculty—the potential faculty member, the applicant, to give us a CV, a curriculum—a resume of his activities, background and so on and so forth, which we expect him to list these things and so we have that information at the time of appointment.

If he remains a part-time faculty member at the college and should make changes in his affiliations, other than that, we presume and expect that he will inform us of this as a matter of [2230] courtesy.

But there is no requirement that he do so.

Q I see. All right.

Are there not limitations on outside employment for full-time faculty at the university?

A Yes, there are, as stated in the faculty hand book.

Q And that pertains, does it not, to all full-time faculty?

A To full-time faculty employees of the university. Which my definition means that they are giving their full time as services to Yeshiva University.

Q Do you take part in the formulation of a budget for Stern College?

A Yes.

Q Is that done on an annual basis?

A Yes.

Q Included on that budget is there any provision for the income pursuant to student enrollment, Dean?

A I don't understand your question.

Q Does the budget list—make any listings or provisions for the income by tuition that Stern College would generate to the university?

[2231] A Yes, in the overall consideration of approval of our budget this is one of the things that the university budget committee and the office of the vice president for financial affairs takes into account.

Actually the—

Q Well, is—

MR. KRAMER: I don't think the witness has finished his answer.

A As the bulk—So the bulk of my involvement in making up a budget is a projection of the expenditures.

The question as to whether or not those expenditures will be approved are raised by the office of the vice president of financial affairs who then may point out to me that because of falling enrollment or decrease in or increase in enrollment we may or may not expect to spend at that level.

Q In the annual budget, though, will there be a projection of income by enrollment?

A The annual budget?

Q Yes.

A Of Stern College?

Q Yes.

A No. We don't draw up the annual budget that way. That appears in the annual budget of the university.

[2232] Q And who draws up the annual budget for the university?

A That is projected, presumably, by the vice president for financial affairs and his staff.

Q And within that budget, is your understanding that there is some—there is some figure or projection for the enrollment income at Stern College?

A That has been so stated often.

Q And will you learn what the projected enrollments will be for Stern College or is anticipated?

A I supply it, or I, in conjunction with the reports given to me by the Committee on Admissions, project what we think would be a reasonable level of the—and the office of the registrary issued—In other words, there are two components, there are the current students—student body and the incoming student body.

The Committee on Admissions gives me a projection on what, we can expect as an incoming class, the size of the incoming class and the office of the registrar reports to me their estimate of how many students will be—will have completed their degree requirements, how many may withdraw so we will have an idea what the total enrollment would be.

[2233] Q Has there been any time since you have been dean at Stern College where there has been a decision to expand the enrollment of the college?

A That had been the standing directive under which I have worked as a dean.

Q And where is that directive—Where does that directive come from?

A That directive has come from the University and the discussions that have emerged in the various—in faculty meetings.

Q From whom has it come in the University?

A As all things come to me from the office of the president through the vice president for academic affairs.

* * * *

[2240] (By Mr. Shectman) You indicated, did you not, Dean Mirsky, that, with reference to the committees listed on Employer's Exhibit 105, the university administration, beginning with yourself and going on to the office of the president and academic vice president, maintains certain veto powers over action by these committees?

A No, I don't recall having said that. I don't believe it to be true.

The only time that I recall having made any such statement was a question if a recommendation were to be made in regard to—if the committee on scheduling, which was an ad hoc committee, had recommended something that I felt was not proper, would I have veto power on that; and I said that I certainly, you know, would have the power to object to it, and probably would have to have [2241] recourse to the president or the academic vice president if we had to adjudicate the matter.

Q Now, on the committee on promotions, you indicated that was an elected committee.

A Yes, those members are elected by the faculty.

Q And which faculty members would be entitled to vote in that election?

A All faculty members who are empowered to vote under the faculty documents, which would be full-time members of the faculty and part-time members of the faculty, whoever taught for three consecutive years and have taught three hours or more, as stated in the document.

Q Now, you indicated that the department chairman at Stern College are appointed by yourself.

A Yes, technically they—certainly upon my recommendation, which has to be approved by the office of the president—the president or the academic vice president.

* * * *

[2242] Q (By Mr. Shectman) You indicated in your testimony with regard to the hiring of new faculty that you undertake certain consultations as to the needs for new faculty and budgetary considerations.

With whom will you make such considerations in matters of the budgetary—in budgetary matters?

A Well, initially with the department chairman and —at which point any decision that we make carry budgetary implications, and we will discuss whatever those implications may or may not be.

Once we have an agreement, and then we pass that on to the academic vice president and the vice president for financial affairs.

Q You indicated in your testimony this morning that department chairman may or may not discuss considerations or decisions about hiring new personnel with other members of the department.

In preparation for these hearings, did you talk to or discuss with departmental chairmen whether in fact they did consult and discuss with other members of the [2243] department on decisions—on hiring decisions?

A No, I did not.

What I reported is what I have and based on my knowledge and experience with them.

Q The matter you referred to that was brought to the faculty review committee involved the retention of a Dr. Carol Gruber, did it not?

A Yes.

Q And it was the position of the department chairman, was it not, that Dr. Gruber be maintained?

A Be retained, yes.

Q And it was your position, was it not, that she not be retained?

A Correct.

Q Was Dr. Gruber retained?

A No, she was not.

Q In fact, did the university faculty review committee have any authority whatsoever to bring about her return to the teaching post?

A The university review committee in its report, which I saw a copy of, stated that, as to the matter of the individual involved, Dr. Gruber, since she was a nontenure person, retention or not did not constitute a grievance that would fall under its jurisdiction; but what did remain in its jurisdiction was the question as [2244] to whether or not I had infringed improperly on the rights of the departmental chairman. And they addressed themselves in their report to that point.

Q And do you know how many grievances have been brought before the university review committee in the last three years?

A I do not recall the total number, but the university review committee reports regularly.

MR. KRAMER: I think there is testimony in the record, Board Exhibit 2, on the number of grievances that have been brought. Whether it's been in the last three years or not I frankly don't recall.

The number, I believe, was four that was testified to by previous witnesses.

Q The conclusions of the university review committee in the Gruber case—and that is contained within Employer's Exhibit 109—states that it is the president in whom ultimate responsibility rests; he alone makes the crucial decision in the final analysis—

Change the order of that sentence. I will read it as quoted—

MR. KRAMER: I must object to reading sentences from the document.

MR. SHECTMAN: I am not reading.

MR. KRAMER: The document speaks for itself. It [2245] should be read in context.

I purposely refrained from not reading from this document.

Q With regard to this document, and in reference to the president's ultimate responsibility, I refer your attention to page 4 of Employer's Exhibit 109.

Is it not the case, Dean Mirsky, with regard to nontenure faculty, for instance, that your role or the role of the department chairman or the role of anyone else in the university would only be advisory with regard to the ultimate decision of the president?

A You are asking me to express my understanding of what the structure of the university is.

As I understand it—and I may be wrong on this—the president is the chief executive officer of the university working under the mandate given him by the board of trustees. As such, he exercises the right, or basic decisions, ultimate decisions.

In the case at hand, I did submit my recommendation, and Dr. Goldstein submitted her recommendation to the president.

The president supported my position.

Yet the avenue of appeal was open to Dr. Goldstein. She did go to the grievance committee or the university faculty review committee, which did review the case and [2246] then submitted its recommendation back to the president. So that obviously there are avenues of approach open to people other than that.

But I think, corporately, as I understand it, the chief executive officer does indeed carry the responsibility for ultimate decisions. But I am not a legal person.

* * * *

[2251] Q Now, in your testimony this morning you spoke of the role of departmental chairmen and evaluation of faculty, and indicated that departmental chairmen might ask students about the performance of certain faculty members, did you not?

MR. KRAMER: Excuse me.

A I don't recall if I said it, but I do recall saying that some departments have developed their own evaluation documents, questionnaires which they do distribute to students.

It is possible—I really don't know—that some departmental chairmen do talk to students and solicit [2252] their opinions and evaluations about courses.

Q By these questionnaires they would be soliciting information?

A Yes.

That's a written document. You asked whether they talked to students. I presume they do, but—

Q Would they also on occasion solicit information about the performance of a faculty member from other faculty members?

A Presumably they might.

Q Now, with regard to the policy on tenure and the department chairman there, do you know if department chairmen consult with other faculty members or other members of the department as to their recommendations to you as to the eligibility or tenured status of any faculty members?

A I don't know what practice they use.

The only way I would know if if someone told me that that had been done, but that's the only way I might know.

Q And is it you who submits a recommendation to the office of the president for granting tenure to a faculty member?

A I submit the total record. In other words, I submit all of the documentation to the office of the president. [2253] That documentation would include whatever recommendations I would have from the departmental chairmen, whatever else would exist—I have, information that would be necessary or that would be requested of me.

Q What kind of information—

A And I may or may not add my own personal recommendation.

Q What kind of information would conceivably be forwarded to the president's office or vice president for academic affairs?

A Length of service, activity within the college, lists of publications, recognitions that might have been given in the academic community, service to the university other than through the college; anything that would help.

Q Is it your normal practice not to make a recommendation as to tenure?

A Generally speaking, as I indicated, I do make a recommendation.

And in most instances, if not in all, I have gone with the recommendation given to me by the department.

Q Have you gone with the recommendations given to you by the department in all cases?

MR. KRAMER: I must object.

There is no testimony that he went with any recommendation by any department.

[2254] THE WITNESS: By the chairman.

MR. KRAMER: But by the chairman.

* * * *

THE WITNESS: —that recommendation comes to me from the chairman—

* * * *

THE WITNESS: Yes.

My presumption was that we would—it was perhaps an oversight on my part since we were talking in context, and I said these recommendations come to me from the chairman. I solicit them from the chairman in his capacity as [2255] chairman.

I do not ask him how he arrived at this recommendation, nor do I know, nor do I particularly judge his recommendation as to he has consulted with others or not.

When I said "sent from the department," in my context that meant the recommendation given to me by the chairman in the department.

Q Dean Mirsky, in this very important question of faculty members' tenure at Yeshiva University, have you on occasion consulted with faculty members whether or not department chairmen?

A On whether or not to grant tenure to an individual?

Q Or the merits of making that recommendation.

A I do not believe I have ever done that.

Q The only person you will talk to, or the only member—the only member of the faculty to whom you will talk on which to base your recommendation for or against tenure will be the department chairman?

A Stern College faculty, yes.

Q Have there been any occasions where you have recommended against the recommendation of a department chairman?

A There might be one such instance.

In this case it happened to be a departmental chairman who was up for tenure and recommended himself for tenure, and I did not.

[2256] Q And that is the only instance that you recall?

A Yes.

And he was granted tenure. He is a tenured member of the faculty today.

Q And have there been occasions where the vice president for academic affairs or the president of the univer-

sity has not complied with your recommendation and the recommendation of the department chairman?

A I cannot recall any such instance in the past.

Q Was there—

A With the exception of the one I mentioned before, where the president granted tenure when I recommended not to.

Q Was there at one time a freeze on the granting of tenure at Stern College?

A To the best of my knowledge, there was never a freeze on the granting of tenure.

Q You indicated that there was a committee on promotions, did you not?

A Yes.

Q Are there any department chairmen on that committee?

A Let me look at the list.

Q I see there is an asterisk next to your name.

That does not indicate you are a department chairman?

A No. I am chairman of the committee.

[2257] Q I see.

A On that committee Dr. Appel is a departmental chairman. Dr. Eidelberg is a departmental chairman. Dr. Friedland is a departmental chairman.

Q The remainder are not, then?

A The remainder are not.

Again, of course, these were people elected by the faculty as faculty members.

Q Now, I believe in your testimony this morning you testified as to the activities and purpose of all of these committees, and I don't recall such testimony with regard to the faculty welfare committee.

Would you tell us what their purpose and activities are?

A The faculty welfare committee concerns itself with matters affecting the welfare of the faculty.

Q Would that include their salaries?

A Yes, certainly.

Q And, as a product of their activities—
MR. SHECTMAN: Can we go off the record?
HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.
Q (By Mr. Shectman) I show you Employer's Exhibit 80-A from the prior proceeding entitled "Faculty Salaries" with [2258] indication of Yeshiva College and Stern College under salary steps proposed for the faculty, years, and rank, and then the categories of—of the faculty.

Was this—Were these salary ranges worked out with the faculty welfare committee?

A Yes, without checking each figure, but looking at the general thing, this seems to be the faculty scale worked out.

Q And are the faculty employed at Stern College employed pursuant to such a schedule as is or as amended?

A Yes, the full-time faculty are.

Q And are departmental chairmen paid according to such a schedule?

A Yes, they are.

Q Is the dean of Stern College paid according to this schedule?

A No, he is not.

Q Are the part-time faculty of Stern College paid according to this schedule?

A No.

As I mentioned earlier, they have a different range of salaries.

Q The salaries listed here, I assume, are per annum salaries?

A Yes. They are for the academic year.

[2259] Q Is it then true that, prior to this academic year, the salaries for full-time faculty at Stern College varied between $14,000 and—excuse me—varied between $7,000 and $19,500?

A On the—well, first on—that was the scale that was in effect with one modification. I would say those are

not the actual salaries, because, to the best of my recollection, there was no one earning less than $8,500.

The scale was, say, 7,000, of which was the beginning scale, but there was an increase granted by the university on a percentage basis of the salaries.

And so people who were at the maximum at any level were earning some—above the printed maximum of that scale.

MR. SHECTMAN: Off the record.

(Discussion off the record.)

HEARING OFFICER: Let's go back on the record.
Q (By Mr. Shectman) Do you have a written salary range for your part-time faculty?

A Yes, I have general ranges.

Q And they have been formalized into some document?

A They were submitted to me by Dean Frimmer, who is my predecessor in the office of the dean, saying that these are the—these were the ranges that were given to him. And I have gone along with those ranges since.

[2260] Q When did Dean Frimmer give you those ranges?

A In the spring of '68, I presume, when I was getting ready to go into the office.

Q And those ranges remain in effect?

A No. In—Well, generally those are the ranges that remain in effect, but in the year—I believe it was—I don't recall—'69, '70 or '70-'71, on appeal, the university granted the part-time faculty at Stern College an increase of ten percent, of course for each part-time faculty member, so that was agreed.

Q So was that the last increase that the faculty was given?

A Part-time faculty, yes.

Q When was the last increase that was given to the full-time faculty?

A The full-time faculty, as I indicated, works according to the scale. So, except for one year when there

was a freeze on increments, all faculty members went according to the scale.

And then, when the university made its adjustment for those who were at maximum, that was taking them above the scale.

Q So then—

A There is a—there was negotiation for the current scale, and this is the scale up until the current year,

[2261] Q Were there—

A In the negotiations, faculty welfare committee presented to the university a request for revision of the scale for full-time people and an adjustment in the scale for part-time people.

Q Now, in the year 1972-1973, for the academic year, someone working in '71 and '72 would receive an increase according to the exhibit in '72-'73, would he not?

A Yes, that would be normal procedure.

Q Would a part-time faculty member receive any such automatic increase in the years '72-'73?

A No.

I indicated this was worked out with the welfare committees. And, since that did not contain automatic increments, no automatic increments were given.

So, whatever agreement—I was not dean at the time that this salary schedule that you have was agreed to, so I don't know the details of it, but whatever was agreed to is what had been implemented.

Q Are there full-time faculty members at Stern College who do not have 12 contact hours?

A Yes.

Q They, I assume, have some contact hours that are —they have some contact hours, and then the equivalent —then it's equivalents as defined by you?

[2262] A Me or by the university, yes.

As I indicated, departmental chairman, for example, have a remission of one quarter of their workload.

Q Are there any other faculty at Stern College who have such a remission or such equivalent status?

MR. KRAMER: If you understand the question.

Q Do you understand the question?

A Are you asking whether anybody else gets a remission—

Q Yes.

A —for these duties?

Q Yes.

A The only people who get these remission—this kind of remission are departmental chairmen.

Q Are there any other faculty on the Stern—at Stern College other than departmental chairmen who do not have 12 contact hours?

A Who do not—

Q Full-time.

A —have 12 contact hours or their equivalent?

Q No.

Let me ask you again.

Putting aside departmental Chairmen, are there any other full-time faculty at Stern College who do not have 12 contact hours?

A Yes.

[2263] Q Could you describe some of them?

A Offhand I can think of two.

Q Could you tell us about that?

A One is a departmental chairman.

Q Putting aside departmental chairmen.

A Yes, there is a departmental chairman who has a further remission of—on the workload because, upon appointment, the letter appointment indicated that she was to carry other responsibilities which had to do primarily with the teacher preparation program, coordination, supervision of our tuition—of our teacher certification program, and therefore consideration was to be given for those duties and towards a reduction of the number of contact or classroom hours that she would be teaching. That would be an equivalent.

And there is another faculty member who was granted a remission of some contact or teaching hours to permit research and publication—completion of research leading to publication of a book.

• • • •

[2280] THE WITNESS: Well, I will try to give you some—it's obviously a personal view, although this is something that has been discussed within the academic community for—for many, many years.

I have heard an extreme position given by one vice president for academic affairs who felt that virtually every waking hour of a faculty member ought to be and, in a sense, is devoted full time to his improvement as an instructor and, oh, to familiarize himself with the—with the subject that he is teaching and all other related subjects.

On the average, I think it is expected that, in addition to the hours that a faculty member invests in actually meeting with students in the classroom and as advisor to students and general contact, and in certain more easily quantified activities such as grading examinations and grading papers, making up—reading lists, advising syllabi, and participating in faculty departmental meetings and faculty meetings in university functions, and so on, that he should be spending a good deal of his time in reading, in carrying on research, in professional activities, perhaps participation in professional associations, in his own writing, and things of that sort, and so the range—it is felt that—it's extremely difficult to talk about whether a faculty [2281] member can be said as putting in a 40-hour week or a 48-hour week, or anything of that sort, that this obviously will vary with the conscientiousness and the range of the faculty member's interest, and what he thinks is germane to him.

But, generally, if we give a faculty member a full-time appointment, it is felt that he should be available for all of the more normal aspects, as I indicated, classroom, advisement, participation in meetings, and so on, and, in addition to that, try to make sure that he has enough time left to keep himself abreast of what is going on in his field and related fields by grade hours.

And it is for this reason too that, when we have what are called interest sessions or vacations, while presumably faculty members can rest up by fishing and playing golf, they're also expected to be on the job by reading, broadening their fields and so on, and research.

It's an extremely difficult thing for me to experss.

I would say, on the basis of my own experience, there have been times when I have probably put in a work week, between reading and preparing for courses, and trying to keep ahead of my students, which is not always easy, by putting in 60 and 70 hours a week; and sometimes by doing significantly less.

* * * *

[2285] Q That's not what I mean.

I mean now, in terms of putting aside the process which you have already explored, when a full-time member is hired, or a full-time faculty member is hired at Stern College, can he be hired in any of the professorial ranks?

A Yes, that's a decision that's made.

[2286] In other words, when I discuss with a departmental chairman the question of new faculty, if it is felt that the needs of the department are such that we need a senior person, which means someone with more years of experience, perhaps higher levels of training, perhaps greater publications or research or greater recognition in the field, we discuss also the implications of that, because the higher, or the more senior member of the faculty, at the higher rank, which will reduce the budgetary—budgetary flexibility that will exist within the department and, consequently, within the college for further appointments.

And so we weigh whether it would be better to have, let's say, a full-time professor at this point to serve our needs or rather two instructors, for whom we can for the same we could get one, and what our needs, and how long it would best serve that.

When we agree on this, we can then recommend and request that the appointment be made at any rank.

In other words, there is nothing that prevents a person from coming in at an advanced rank. Not everybody must begin in the instructor's level.

Q In making that recommendation to, I assume, the office of the president or the vice president for academic affairs—

A Correct.

[2287] Q —would you provide the basis of that recommendation?

What I mean by that is the—we're talking about someone who would get an appointment higher than that of instructor.

A Yes.

Q Would you provide information as to the person's background and qualifications and why?

A Yes.

Q You would recommend a higher appointment?

A We do that on two—two levels:

One is the level of the individual. In other words, if we are asking for someone to be brought in with a given professorial rank, we would try to justify that by giving his credentials, showing that he is worth they have this kind of rank. And then we would try to justify that on the basis of the needs of the department and the college, as department chairman, and I have worked that out.

Q You would justify that to whom?

A We go to the office of the president through the academic vice president.

And that may sometimes, of course, lead to some kind of discussion, although this is very rare, with the vice president for business affairs, since this is largely an academic and not a business decision.

* * * *

REDIRECT EXAMINATION

[2291] Q Dean Mirsky, to clarify the record, have you received adverse recommendations with respect to termination and reappointment from the department chairmen?

A What do you mean, adverse?

Q Anything negative. They wanted certain faculty members, be they part-time or full-time, not appointed the following year.

A Yes.

Q Or terminated the following year.

A Terminated, yes.

Q Have you accepted those recommendations?

A Yes.

Q Have you also turned down some of those recommendations.

* * * *

[2292] A Yes.

Q Have you also turned down recommendations for non-appointment or termination?

A No, I cannot recall an instance where a departmental chairman said he did not want a faculty member reappointed that I did not accept that.

Q How about where he wanted him reappointed?

HEARING OFFICER: I believe we have testimony—

A I believe—I can't—I can't recall an instance, except for the one that we discussed with Dr. Gruber.

MR. KRAMER: That's what I was getting to, Mr. Hearing Officer.

HEARING OFFICER: All right.

Q Is it a fact, then, Dean Mirsky, that the Gruber incident, which is reviewed in Employer's Exhibit 109, was the only situation in which you refused to accept the recommendation of the department chairman for the retention of one faculty member, retention of a faculty member?

A Yes, I believe that's true.

Q And the appeal that's reflected in Exhibit 109 stemmed [2293] from that; is that correct?

A Yes.

Q You consulted with that chairman, did you not?

A Which chairman?

Q The chairman—Doris Goldstein.

A Yes.

Q Doris Goldstein?

A Yes. We discussed the matter.

Q But you did not accept her recommendation?

A No, I did not.

We discussed that a number of times too.

Q And she didn't have the authority on her own to effectuate the reapportionment, is that correct?

A That is correct.

* * * *

[2297] Q Now, putting aside questions of tenure for the moment, does such a faculty member—and you have named three of them—putting aside the questions of tenure, do they have appeal with respect to their non-renewal or termination?

A Yes, if they feel that they have a just grievance, that some improper action has been taken against them.

Q Where is that appeal taken?

A They can appeal within Stern College through the welfare committee or to the university review committee, the university faculty review committee, or, if they want to, on personal appeal, they can go over my head, so to speak, and appeal directly to the academic vice president and ask for reconsideration.

Q Putting aside questions of tenure, have Professors Rosoff, Silver, or Bittman filed such an appeal?

A No.

Q Now—

A Other than the request for consideration for tenure, which is another thing.

Q Now let's deal with the question of tenure.

A Yes.

Q If the termination was because a professor has been [2298] denied tenure there an appeal procedure there?

A Yes, there are two kinds of appeals in that such a faculty member may make.

One is a direct appeal as I indicated before perhaps to the faculty—University Faculty Review Committee, that tenure ought to be granted and this then is in the nature of a grievance, appealing that some improper action has been taken against this faculty member or there can be a request that the eligibility of the person for tenure either be reviewed generally or under the new tenure policy statement that the faculty member indicates that he or she is prepared to consider reappointment to one of those titles that would not accrue further credit towards tenure then they may appeal on that score and then that may or may not be granted.

Q All right.

With respect to the three faculty members you have

testified about have any of them appealed on the grounds that—have any—any of them—strike that.

Have any of the three faculty members you referred to been terminated because they are not going to be granted tenure?

A Yes, two of those faculty members.

Q Which two of those?

[2299] A Professor Rosoff and Professor Silver.

Q Now, has Professor—either of those two faculty members processed an appeal alleging that tenure has been improperly denied for one reason or another?

A Improperly denied?

Q Yes, sir.

A No, they have not filed such request.

Q Have either of those two professors asked that their denial of tenure be reconsidered without making allegations of any property?

A Yes, they have.

Q And is that—is that tenure being reconsidered at the present time?

A Yes, it is.

Q When will a decision be reached?

A I hope that a decision will be reached before the beginning of the spring semester but this is something in which I don't have absolute control.

So we are hoping to push for that.

Q Which two professors are those?

A Professor Rosoff and Porfessor Silver.

Q Now, with respect to Professor Bittman?

A Yes.

Q Has any such request been made?

A No, other than a personal request to me.

* * * *

[2316] DR. ISAAC BACON

called as a witness, having been first duly sworn in by the Hearing Officer, was examined and testified as follows:

HEARING OFFICER: Please be seated.

Would you please state your full name for the record?

THE WITNESS: Dr. Isaac Bacon.

HEARING OFFICER: Okay, Mr. Kramer.

DIRECT EXAMINATION

Q (By Mr. Kramer) By whom are you employed?
A Yeshiva University.
[2317] Q And how long have you worked for Yeshiva University?
A Since September—since the summer of 1959.
Q And in what capacity have you been employed by the University?
A As the Dean of the college.
Q You say as the Dean of the College, which college are you referring to?
A The Dean of Yeshiva College.
When we say the "college", we mean Yeshiva College.
Q You have been the Dean of Yeshiva College since 1959?
A That is correct.
Q What did you do before you came to work at the University?
A I was a professor at the University of Colorado.
Q In what field?
A German and linguists.
Q In addition to being Dean of the Yeshiva University for the period 1959 to date, have you also any other title in the school?
A Yes, I do.
I am a professor of linguists.
Q Have you actually taught courses at Yeshiva College?
A Yes, I did, once or twice a long time ago, I would say.
[2318] I didn't teach at the college, by the way, I taught at the Bernard Revel Graduate School.

* * * *

Q (By Mr. Kramer) Mr. Bacon, I show you Employer's Exhibit 110 marked for identification.
The document is entitled Yeshiva College Faculty, Fall 1974-75, is this the listing or exhibit that you have had prepared?

(Handing to the witness.)

A Yes, I did.
Q Now, let's turn to the headings which are underscored [2319] next to the letters, A, B, C and D.
What do those headings stand for?
A They stand for the four divisions of the college.
Q And I notice that next to each title which is adjacent to each of those letters, there are parenthesis with a name and designation, sermon.
What does that stand for?
A That is the name of the faculty member who is the elected chairman of that division.
Q Now, in addition to these A, B, C and D headings there are Roman Numerals with what appear to be subject matter by them.
What do those Roman Numerals stand for?
A They are subject areas which really—the faculty would be the departments, but we do not have a department structure in the college, so we refer to them as subject areas, and the divisions in that structure—the structure unit which comprises these various subject areas.
Q Is it correct then that you have subject areas within divisions in your college?
A Correct.
Q Now, you say that you do not have departments?
A True, we have no departments.
Q Are the subject areas sometime referred to as departments?
A Yes, in normal discussions we refer to them as [2320] departments.
Yes, they are defecto departments.

* * * *

[2337] Q (By Mr. Kramer) Now, Dean Bacon, will you tell us what your responsibilities are as Dean of Yeshiva College.
A The function of a Dean is to provide a vocational leadership and that is what I am trying to do, to the academic community of the college.

I am responsible to the Vice President—through the Vice President of Academic Affairs, as to the way the College conducts itself.

Q Subject to your supervision, to whom is the management of the College entrusted?

A To the faculty.

Q Are the students involved also?

A To a certain extent, yes.

Q Now, let's turn, Dean Bacon, to Employer's Exhibit 55, which is appended or a part of Board Exhibit 2 in this case.

(Handing to the witness.)

Q In this document which is entitled "Yeshiva University, Yeshiva College Faculty Status" still in full force and effect?

A Yes, with one—with one, of course, stipulation, [2338] which I think was noted last year also.

In paragraph three, Roman Three it is not in operation.

The document is in operation with the exception of item Roman Three.

Q Which is on Page 4 and 5?

A Right.

Q Entitled "Department" is that correct?

A That is correct.

Q Is that why you have told us that you did not have departments dejure in your college?

A That is correct.

Q Now, I show you Employer's Exhibit 56 in evidence, as part of Board Exhibit 2.

(Handing to the witness.)

Is that an up to date version of the constitution of the Yeshiva College Senate?

A I don't think so.

It is not.

MR. KRAMER: Mark this as Employer's 112.

(Whereupon, above referred to document was received and marked Employer's Exhibit 112 for identification, of this date.)

Q I show you Employer's Exhibit marked 112 for identification, entitled Yeshiva University, Yeshiva College, the [2339] constitution of Yeshiva College Senate dated September, 1974 in the right hand corner.

Is this an up to date version of the constitution of the Yeshiva College Senate?

A Yes, that is.

* * * *

[2342] Q Dean Bacon, do you attend faculty assemblies?

A Yes, I am a chairman of the assembly.

* * * *

[2343] Q (By Mr. Kramer) Dean Bacon, many of these committees appear to have the same name, not all, but many.

Are they, in fact, separate committees, one of the Senate and one of the Assembly or, in fact, are they joint committees where they have the same name?

A Well, they are not—they are the same committees. They are the same committees.

Q Would you explain that, please?

A Yes.

Well, I think they are some historical reasons for that.

The Yeshiva College faculty statute was written by the faculty, it took them almost ten years to work it out, and then when the Senate was brought into the governments of the College, the committees were simply transferred to the Senate.

So the committees that you have established by the faculty, in the faculty statute, are, in fact, the same as those in the Senate.

The only distinction, really, that one has to make is that originally these committees, as determined by the statute, did not have any student representation on them. [2344] Whereas on the committees that we have now, they have the same names and mainly the same functions, do include students on these committees.

Q To whom do the—I will call them the overlapping committees report?

A They report to the Senate and to the faculty, since

according to the statute the faculty has veto power over any decisions and solutions passed by the Senate.

So that the faculty committee that reports to the Senate and the Senate approves, then it still would go back to the faculty and would report there.

Q Dean Bacon, do any students sit in the faculty assembly?

A They do not—they do not have any voting rights, but whenever Senate decisions or Senate resolutions are discussed, at the faculty assembly, they are being invited to come, to participate.

They have a right to participate, but they do not vote in these matters.

Q Only the faculty may vote?

A Only the faculty may vote.

Q I—as stated in the constitution of the faculty assembly, is that right?

A Correct.

Q And the faculty assembly has a veto over the Senate, is that correct?

[2345] A Over the Senate resolutions.

We just vetoed one just two days ago.

Q Dean Bacon, have you veto over the faculty assembly?

A No, I don't.

In fact, I may add here that when the Senate was written in 19—in the summer of 1969, the student and faculty that were writing the Senate constitution, did include a veto power by the Dean and he declined to accept this, so it was stricken from the constitution.

Q So neither the constitution of the Senate nor the constitution of the faculty assembly, which is all the faculty statute, Employer's Exhibit 55, provided a veto for you, is that correct?

A That is correct.

Q And you, in fact, did not have such a veto I take it?

A No, I don't.

Q Is it then correct, Dean Beacon, that the faculty

assembly may direct action within your school that is binding upon you as Dean?

A Definitely.

Q Would you give us a few examples of how this could, come about?

A Well, I would presume that any kind of matter that is being taken up in a committee or in the Senate, and has [2346] been approved by the faculty or not vetoed by the faculty that as far as I am concerned, becomes the law of the College.

As a matter of fact, I find myself very often on opposite ends in Senate meetings where I vote against certain procedures, but once the Senate has approved it and the faculty not vetoed it, then I feel that I execute these —these regulations.

Q And the scope of the Senate is found in Article 2, on Pages 2 and 3 of Employer's Exhibit 112?

A That is correct.

Q And would encompass discussion and disposition of all matters submitted to it by the administration, the faculty, the student council and the Yeshiva College Alumni Association?

A Not the student council, students.

Q It says "student council".

A Oh, I see.

I am sorry, yes.

Q Is that correct?

A That is correct, yes.

Q Together with all of the other items listed in Section 1, Page 2 of Employer's Exhibit 112, is that correct?

A Student council matters would be brought before the [2347] Senate through its representatives on the Senate—by student representatives on the Senate, right.

Q And in addition, all of the other items in Section 1 would be for disposition by the faculty—by the Senate, is that right?

A That is correct.

Q And the faculty assembly, which is referred to in Employer's Exhibit 55, has the right to approve or disapprove action that the faculty Senate, is that correct?

A Not the faculty Senate.

Q Of the College Senate?
A That is correct.
Q And you have no veto over that faculty assembly at all?
A No, I don't.
HEARING OFFICER: I would point out for the record that Article 2, Section 3 refers to the veto power discussed in Mr. Kramer's—
MR. KRAMER: Of—
HEARING OFFICER: —of Exhibit 112, which has been discussed by Mr. Kramer, is that correct, Mr. Kramer?
MR. KRAMER: Let me just read it.
HEARING OFFICER: Go ahead.
MR. KRAMER: I think the Section 3 speaks for itself.
It refers to veto, but in a somewhat different [2348] context.
Q (By Mr. Kramer) Dr. Bacon, does the president of the University have the power to disapprove actions of the faculty assembly?
A Well, they all come—yes, he does.
But the fact is that the President has never vetoed any decisions of the faculty assembly, certainly not in my time and not to my recollection.
Q And you have been there for better than 15 years?
A 16 years, yes.
In fact—in fact, the president has never vetoed any of the—vetoed any the senate resolutions either.
There was one item that came to the president and he asked—although he had the right to veto it, he asked that the Senate reconsider this, its decision that it had reached and that is the way it was left.

* * * *

[2349] Q Now, Dean Bacon, that is—let us turn to the Committee on Curriculum and Instruction.
Is that committee referred to in both Employer's Exhibit 55 and Employer's Exhibit 112?
A Yes, it is.

Q Would you tell us what the function of the committee on curriculum and instruction is?
A Well, the committee—this committee receives all requests for new courses, which is forwarded to it by either the Senate or by the divisions, the various divisions.
Q And what happens to these requests?
A Well, this is really quite a protracted progress.
If a faculty member feels that he would like to add or create a new course, very often I initiate such courses [2350] myself and discuss it with the faculty members and get him or her interested.
They would have to take it to the department, and if the department approves it, it goes on to the division.
If the division approves it, it goes on to the curriculum committee and if—and if the curriculum committee approves it, it become a course in the college.
This is one way, this is one track.
Another track would be that a course is initiated in the Senate and in that case, if the Senate—if it is initiated in the Senate, it still has to go through the Department and then on to the division and, finally, to the curriculum committee.
Only there it has to return to the Senate for finalization.
Now, any course request or any course—any new course which is accepted and approved by the curriculum committee, technically, it would still have to be approved by the faculty.
What we have been doing is distributing the decisions of the curriculum committee to the faculty, and if there is no objection, that new course is then the new course in the college.
And, of course, if there are some objections by faculty, then I put it on the agenda of the next faculty [2351] assembly, at which time the faculty assembly decides whether the course is to be given or not.
There is another track which I think I ought to mention.
That is that I have the privilege, which was given to me by the faculty, to initiate courses on an experimental basis.

So that, of course, maybe introduced to the college without this—without following the formal track.

The only stipulation that these courses have, it must be brought before the department—I am sorry, I wouldn't introduce such a course if it is not introduced by the department, but it has to go then to the division and to the curriculum. committee.

If they are approved then, of course, the course becomes a legitimate course in the college.

If it is disapproved, it would have to be stricken from the schedule.

Q Have they, in fact, disapproved, Dean Bacon, of a course that you had initiated, or a program that you have initiated?

A That I have initiated?

Q Yes.

A I cannot think of one.

Q But they have the authority to disapprove?

[2352] A They have the authority to disapprove, right.

Q You testified that you have the authority to put a course into effect, I believe, for one term, is that correct?

A Yes.

Q Where did you get that authority from?

A Well, the faculty assembly accepted that, that the Dean should have the privilege.

Q In other words, the faculty agreed that you should have that authority, is that correct?

A Yes.

Q It was not given to you by the president of the University?

A No.

Q Or by the Board of Trustees?

A No.

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[2355] MR. KRAMER: Let's ask the witness.

Q (By Mr. Kramer) Dean Bacon, you say you have the authority to schedule courses for one term, not beyond that?

A Right.

I am only talking about experimental courses, I used the term "privileged".

Q A privilege you use?

A Yes.

Q Would you explain that to us, from whence that privilege comes?

A Well, I must say that—I think I could say that a number of courses which are now part of the regular Yeshiva College schedule of courses could have never become part of this curriculum if I had never utilized that privilege.

I think there is one person sitting right here at the table who is a beneficiary of this kind of privilege.

MR. SHECHTMAN: The witness is not answering the question.

HEARING OFFICER: I appreciate that, Mr. Shechtman.

Q (By Mr. Kramer) Dean Bacon, from whence does this privilege come?

A The privilege comes from the faculty.

MR. KRAMER: Now, Mr. Hearing Officer, that question [2356] on the record is not unequivocal, and counsel can cross examine, and I am asking whatever questions you like.

HEARING OFFICER: I am going to ask some questions, if it is all right with you.

MR. KRAMER: All right.

HEARING OFFICER: When you say this privilege is granted by the faculty, how did that granting come about?

Was it specifically stated that the Dean has the privilege to introduce such courses, or did you institute such courses and receive no objection from the faculty, or was it your institution of such courses ratified by the faculty, after the fact?

THE WITNESS: Well, if I would have to answer, where I could find anywhere in the minutes of the faculty assembly that the faculty is on record in doing that which you are asking, I think I would be—it might be different to find such an official approval.

MR. KRAMER: I don't think the witness is finished.

HEARING OFFICER: I am just trying to help him.

MR. KRAMER: You stopped him in a middle of a sentence, though.

HEARING OFFICER: Well, continue, Doctor.

THE WITNESS: But the fact is that in discussing it with a number of faculty members they felt that this privilege ought to go to the Dean, especially since I was the one who [2357] urged the faculty to write a statute that was actually my first act when I became Dean of Yeshiva College in the fall of 1959, to ask the faculty to write the statute, because I wanted a statute to be written by the faculty.

And when we established—and I felt that new courses should not be introduced and not be brought in by the Dean or by any administrator, but it should come from the faculty.

And, actually, I have given up a kind of authority which I will presume, although I did not know, was in the hands of the Dean before I came to Yeshiva College.

And the faculty found it quite helpful, because a number of faculty members actually benefited from the fact that I had a chance—that the college had a chance to bring into its schedule a number of courses, which, perhaps would not be on the schedule of courses today.

I don't know whether I am answering the question.

The fact is, that the faculty has never objected.

If you want to have this question answered directly, the faculty has never objected to my introducing courses on an experimental basis.

So I cannot be as positive as you would like me to be, whether it was officially instituted as a—enough to find its way in the minutes of any college—in any faculty assembly.

[2358] But there were never any objections raised to going with this procedure.

And, in fact, I was commended for going ahead with these, because we introduced a number of rather imaginative new courses, which were taught by two or three people.

Sometimes we had more faculty teaching the course than we had students in the class.

Q (By Mr. Kramer) Dean Bacon, does the faculty have the power to disapprove the continuance of these cources, experimental courses?

A Yes.

Unless it is approved ultimately by the division and the faculty committee, the course would have to go off the schedule.

HEARING OFFICER: Go ahead.

Q (By Mr. Kramer) And all full time faculty members are eligible to vote in the faculty and assembly, is that correct?

And all those others who, according to the statute have the right to vote.

Q Now, Dean Bacon, let us turn to the scholastic standing committee.

Would you tell us what the function of the scholastic standing committee, which is referred to in both Exhibits [2359] 55 and 112, is?

A Yes.

By the way, did I mention that there are students who are on that committee of curriculum and instruction?

Q Yes, the exhibit reflects that.

A The scholastic standing committee is a very, very important committee of the College, and it handles all requests from students for early graduation.

It handles requests from students for professional option.

It approves requests for honors projects.

It approves requests from students for requests for independent studies.

The scholastic standing committee is in charge of the scholastic standing of all the students in the college, but primarily students on probation.

The scholastic standing committee places students on probation and takes students off probation.

It deals with matters of probation, and there are quite a number of perimeters.

For example, a student on probation must not take more than one and a half credits in a semester, while he is on probation.

He may petition for one, two or three credits and the scholastic standing committee may approve or disapprove. [2360] They are not allowed to have any jobs, outside jobs.

The scholastic standing committee, again, will approve or disapprove such a request.

The scholastic standing committee decides on the academic dismissal of the student.

This means that if the student does not have—maintain a certain educational level, it has the power to ask the student to leave the college.

It deals with situations that come up before the faculty assembly.

Q Such as?

A Well, one such item which was on the agenda, that is faculty assembly, and unfortunately we had so much pressing business that we didn't get to it, was grading practices, something which I think is very much of concern to all educational institutions, the inflation of grading, of grades in the college courses by faculty.

And the matter was brought up in the assembly and the faculty assembly and the faculty assembly directed the scholastic standing committee to make a study of it and to preesnt its findings and recommendations to the faculty assembly.

It is probably going to come up, hopefully, at the next faculty assembly.

This is just one item.

[2361] Q Dean Bacon, a student who is dismissed for an academic insufficiency ceases paying tuition, does he not?

A Yes, he is no longer a student in the college.

Q Dean Bacon, a student—

A We would have no objection—we would have no objection, we would prefer that he continue paying, but there is not much of a chance of this happening.

Q We would join in that.

Dean Bacon, do many of your students work?

A A good number of the students, yes.

* * * *

Q If a student who is put on probation was precluded from working—

A That is correct.

Q And if that created financial difficulty, what would be the course for the college to follow?

A Well, the college, the scholastic standing committee, [2362] would still have to insist that such a person must not take a job on the outside, except when he makes a request and he can show a bone fide case, that perhaps his probation or his falling below standards was really not strictly academics, maybe health reasons or something of that sort.

Then the scholastic standing committee would approve it.

But unless the scholastic standing committee would approve such a request, the student may not take a job on the outside.

Q And might require financial assistance from the institution?

A Well, this is what I understand.

Q Well, Dean Bacon, is the premedical major an important one at Yeshiva College?

A Yes, it certainly is.

Q Would you explain that?

A Well, most of our students are interested in premedicine.

They want to go into medical school, and the situation has become more accessibated now where, really, in terms of career opportunities.

This is the best career opportunity besides law school and business school.

Q Are grading practices important to medical students?

[2363] A Yes, it is a matter of life and death.

Q Now, Dean Bacon, are the grading practices of your institution relevant, whether your school will be selected by pre-med students rather than other schools?

A This is a very important situation.

Q Why is that?

A Well, Yeshiva College has a record and I am glad to know that the faculty is on record, that we are interested in maintaining standards, which becomes more and more difficult as we look around us and find that the standards are being lowered all around us, and all institutions.

And I am talking about real outstanding institutions.

We have quite a number of them in the metropolitan area of New York, we insist on maintaining the standards and maintaining grades.

As a matter of fact, I have written a memo to the Albert Einstein College of Medicine, to the admissions committee, to inform them that while we are very much concerned about the tyranny of grading, we still feel that an "A" must mean an "A" and a "B" must mean a "B" and, of course, an "F" must mean an "F" as well.

That, of course, is a very serious problem, as far as attracting students to the college, because they can do much better in terms of grade averages by going to other schools.

[2364] And I don't want to mention other schools.

I think those you know the situation in the New York area probably can substitute a good number of schools, names of schools.

And so the competition for grades, I must say is very, very fierce.

Our students are very. very grade conscious and it is fantastic.

They will go through all sorts of contortions, programs, in order to avoid a faculty member who they know is a tough grader.

Q Who establishes the grading system in your school?

A Our faculty.

Q And the grading system is set forth in the catelogue, is it not?

A They are set forth in the catelogue.

Of course, it is determined by the faculty and it is in the catelogue, but I presume that any catelogue that you pick up will have the same description of grades.

But it does not mean, really, that the faculty will follow it.

Whereas in our case, a good number of the faculty feel that they have to follow the standards of grades.

Q And the grading system in the level of marking is relevant in the students' selection of schools and otherwise?

[2365] A Not only the school, but otherwise.

Q In the selection of schools?

A Absolutely.

Q And the university service tutition is tied up, to at least a certain extent, to the type of grading system that is involved?

A Absolutely.

MR. SCHACHTMAN: I object to the leading of the witness to a conclusion.

HEARING OFFICER: Sustained.

Q (By Mr. Kramer) Is the grading system, since we can't lead, or is the grading system not relevant, one way or the other, would you please answer, as to whether students select your school over another school?

A Well, I would have to unequivocally say that the grading system is a very important indication, as far as students selecting Yeshiva College is concerned.

Q Now, Dean Bacon—

A In fact, I think I can go a step further.

I can state that a number of our students who—I think I must phrase it a little differently.

We had for many years, and I am going back, let's say ten—a decade ago, we had a very low, what we call attrition rate which was much, much lower than that of practically any school in the country.

[2366] That attrition rate has risen considerably and —well, to our concern, very high.

Especially, students having been with us for a year or two years, may—many of them decide to go to Israel and when they return, they somehow don't return to Yeshiva University.

We have definitely determined that it is because of the grading practices that we have at the college.

Q Does the president of the institution establish your grading practices?

A The faculty establishes the grading practices.

Q No one else, I take it?

A No.

HEARING OFFICER: How have you determined that these people who have left the school have not returned because of the grading practices?

THE WITNESS: Well, we are very much concerned about it and we are trying to find out why they are not coming and we have determined two things.

They say, "We can get an easy three point eight, three point nine, and today you must have that kind of an average in order to get into a good medical school, and we can get that by going to another school where we are competing with a different type of student, and we don't have to put up with the tough grading that is being given [2367] in Yeshiva College."

This is one aspect.

There is another aspect, by the way, which really does not bear here.

We have, for example, we insist on a residence requirement of practically four years.

You notice that I mention that the scholastic standing committee has to approve any requests for early graduation, which means for graduation before completing four years.

We still insist upon it, whereas many schools in the metropolitan area do not insist upon the residence requirement.

This is one of the reasons why I—why our students are not coming back to Yeshiva and, of course, that means again, less funds as far as the college is concerned.

HEARING OFFICER: Could you explain "residency"?

THE WITNESS: Residency means that we expect the student to be eight semesters in the college.

HEARING OFFICER: Resident at the University?

THE WITNESS: They have to be eight semesters in a college level.

In other words, normally, colleges normally have a credit requirement, in addition to other requirements, like major requirements.

[2368] I think the City University is 120 credits.

We have 128.

HEARING OFFICER: 124.

THE WITNESS: Well, anyway, we have 128 credits, but this is not enough.

In other words, in addition to the 128 credits and in addition to the other requirements that are normal in an academic institution, we also require our students to be eight semesters in the college.

And I might say that that was definitely passed by the faculty assembly, and we have the minutes.

Q (By Mr. Kramer) Not by the Board of Trustees?

A No.

Q Not by the President of the institution?

A I think I made my position very clear.

Q They were the only ones, right, Dean Bacon?

A Right.

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[2369] Q (By Mr. Kramer) Would you tell us what the functions of that committee are?

A Student activities judiciary committee?

Q Yes.

A Well, I must say it is a rather inactive committee because this committee, and I would say thank God, because this committee could only take up matters where a student through his student activities, is being taken to that committee, either by faculty or by administration or by a fellow student or by an alumnus.

Q In other words, this committee meets particular needs, is that correct?

A They only meet with when somebody asks that the committee take up a matter against a student.

Q Would you give us an example of a matter that this committee has taken up?

A It was just a long time ago that the committee met.

I remember one case, it was a very—well, unhappy case where a student who was the editor of a literary magazine [2370] and a professor of English was the advisor, the faculty advisor to that magazine, and in accordance with the regulations then, certainly, the student was supposed to consult with the faculty member about the publications of the magazine.

And he did, and the faculty member objected to something.

I forget now what it was, it was many years ago.

And while he didn't react in anyway to it, he just went and published it over the objection of the faculty member, and this was brought to the judiciary committee, if I remember correctly and the judiciary committee decided to strict the student of all honors, although he was a 3.9 student, I think.

He was a physics major.

I remember a very bright student, and, of course, that recommendation was brought before the faculty and the faculty approved.

Q Was it within the power of that committee to recommend the termination of a student or expulsion of a student, assuming the offense is grave enough?

A I assume that this committee has all these—has all these perrogatives.

It is a therothetical one because it never occurred, it never happened.

[2371] And, yes, the faculty would have to sustain it.

Q The faculty would have a right to pass upon that recommendation?

A They would sustain it and pass upon it, and, of course, if the faculty approves it, the student would receive a disciplinary—a dismissal from the College.

Q And the College would lose the revenue from that student?

A Of course.

Q Now, Dean Bacon, last week did you have a matter that would fall potentially within the perview of this committee?

A Yes.

Q Tell us about that?

A I received a call from an Alumnus who is now at the Albert Einstein College of Medicine, a student there who called me up very distressed that in the pages of our student newspaper he, as he said, was maligned.

He asked me to do something about it and I told him I don't interfere with the—with the publications of the student newspaper.

But I told him that I would have the privilege of taking the student, as an Alumnus, to take the student before the judiciary committee, and I told him that if he was going to initiate action in writing, that I certainly [2372] would be very glad to do so.

Of course, the judiciary committee would have to be called into action.

But to the best of my understanding, nothing has happened since that time.

I think it was Monday or Tuesday and nothing has happened since that time, so I feel the matter has been dropped, or I don't know—

Q Is it within the perview of the committee to deal with matters of this type?

A Oh, yes.

Q And to recommend discipline or termination, should that be required under the situation?

A Well, yes.

Q Now, the faculty assembly has a committee on committees, does it not?

A Yes.

Q What is the function of the committee on committees?

A The committee on committees actually canvases faculty in regards to these committees that faculty would like to serve on, and presents a slate at the appropriate time before the faculty assembly.

The faculty either votes or makes its own admonition but actually the recommendation of the committee on committees is being voted on in the faculty assembly.

[2373] Q Will you tell us what the committee on agenda does?

A The committee on agenda just approves the agenda for the committee.

Q And there is a faculty welfare committee, is there not?

A That is correct.

Q And a faculty library committee?

A Right.

And many—

Q Is that correct?

A Yes.

Q Now, in addition to the committee—

MR. SHACTHMAN: Excuse, me. The witness was in the middle of an answer when he was interrupted by counsel.

A (Continuing) I just want to say that many wonder that students would be on the welfare committee, but they are.

Q Thank you, Dean Bacon.

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[2374] Q (By Mr. Kramer) Dean Bacon, in addition to the committees that are listed on Employer's Exhibit 113, is there a promotion policy committee of the faculty assembly?

A Yes.

It is an ad hoc committee which was voted in by the faculty which—which was charged to, originally, to establish criteria for promotions, and from time to time to recommend changes in that policy.

Q Recommend to whom?

A To the faculty.

Q And is that a functioning committee?

A That is a functioning committee.

Q And the promotions that are being governed are promotions within the school, is that correct?

A Within the college, yes.

Q Yes, within the college.

Is there an ad hoc committee on tenure criteria?

A Yes.

That committee was actually established very recently in response to a report and a request by the State Education Department to all institutions—post secondary institutions in the State of New York.

It was presented to the faculty assembly upon the recommendation of another committee, the committee of [2375] senior faculty members.

The faculty voted such a committee, and, as a matter of fact, that commitee met for the first time yesterday.

Q What was the committee meeting about?

A The committee is to establish criteria under which faculty members will be recommended for tenure.

HEARING OFFICER: Excuse me, Dean Bacon.

You mentioned a committee that recommended formation of the tenure committee? A committee of senior faculty?

THE WITNESS: Right

HEARING OFFICER: That committee is not listed.

THE WITNESS: It is another ad hoc committee.

HEARING OFFICER: It is an ad hoc committee?

THE WITNESS: Yes.

MR. KRAMER: That committee is not listed and that is why we are dealing with them in this fashion.

HEARING OFFICER: Go ahead.

Q (By Mr. Kramer) Is the promotion policy committee made up only of faculty?

A The committee on—

Q Promotion policy.

A The committee on promotion policy, yes.

Q And is the committee on tenure criteria made up only of faculty?

A They are.

[2376] As a matter of fact, a meeting was called yesterday by me and I simply looked that they would organize themselves, and as soon as they established a chairman and a secretary, I withdrew and asked them to deliberate on their own.

Q Now, Dr. Bacon, let's turn to the divisional structure of the college.

You have told us that the division chairmen were elected, as I recall.

A Yes.

Q When did this election or these elections, as the case may be, take place?

A It took place a long time ago.
Q Approximately how long?
A I am under oath, I really don't know whether I could be very exact.
I would really be guessing.
Q Well, I don't want you to guess.
If you can think and try to come up with an approximation, but a mere guess or a surmise—
A All I can say is several years ago.
Q Would you tell us what function or functions the division chairmen performs?
A Well, the first function, the immediate function is, of course, to call meetings of the division.
Remember, the division is a unit that comprises a [2377] number of subject areas or departments, as we might call them in short.
The purpose of the meetings may be many fold.
One of the most important ones are in—to deal with new courses that have been recommended by either the department or by the committee.
They may, they have to decide upon, oh, whether credits may be increased.
In other words, if a course is a two credit course, if it is a two credit course and they want to increase it to a three credit course, or they want to decrease a two semester course to a one semester course, with basically the same syllabus that would be within the perrogative of the division, and the division chairmen would call a meeting for that purpose.
So that is one thing, to call the meeting of the division.
Division chairmen also sit in various councils.
They sit with the Dean in the advisory council.
The advisory council of course, has some very important functions for the faculty to determine and deliberate on.
Q Let's turn to that advisory council, Dean Bacon.
Would you tell us who make up the advisory council of Yeshiva College?
[2378] A The advisory council, as I indicated, consists of the four division chairmen.

Q Anyone else?
A And myself the Dean.
Q Anyone else?
A No.
Q Would you tell us what the important functions, I think you referred to them that way, of the advisory council are?
A The advisory council deliberates on requests for promotions, and it deliberates on requests for sabaticals.
Q Now, would you tell us the role of the division chairmen with respect to, first, with promotions and then sabaticals?
A Well, if a faculty member feels that he is justified to be considered for a promotion, then very often he will come to me and I will tell him to write a letter to the chairman of his division and to give the reasons why he thinks he should be promoted.
The division chairman—by the way, I also ask them to send me a copy too, because I want to be sure that no faculty member is overlooked by a mistake or any other reason.
The division chairman would then at the meeting present that request, with a recommendation.
[2379] The advisory council would then deliberate on the merits of the recommendation and the merits of the request and made a decision, which could be positive or negative.
If it is positive, then I would carry the recommendation to the president.
If it is negative, I would carry the recommendation to the president.
Q Now, you have told us that the division chairmen make recommendations when a faculty member seeking a promotion comes before the advisory council.
In addition to the proposal—
A To the proposal, yes.
Q —when that recommendation is positive, favorable, what form does it take?
A In regards to—
Q To promotion?
A By the chairman?

A Yes, by the chairman.

A He would present it and he will give reasons why he feels that the person should be promoted and try to by good democratic procedures, to convince the other members of the advisory council that they should vote for such a promotion.

Q Now, when the chairman is against the particular promotion, what form is used to demonstrate that?

[2380] A Well, he would present it, he would merely preesnt it and he will not make the glowing recommendation that the rest of the advisory council should approve it.

In other words, he would simply make the presentation and it would be discussed, and depending on how the rest of the members feel about it, the decision is going to be taken to the president.

Q Now, when the department chairman suggests a negative judgment in the fashion you have just described—

A There would not be many cases of that sort.

Q In those cases, what was the reason—the result?

A The advisory council did not recommend promotion.

Q Now, in those cases where the chairman made a favorable recommendation, in addition to the proposal, where it was his judgment, generally, and I am not saying always but generally, it was accepted by the advisory council?

A Generally, yes.

Not always, but generally, yes.

* * * *

Q (By Mr. Kramer) Dean Bacon, has the advisory [2381] council voted to recommend a promotion that you were against?

A I think you will tax my memory.

I really don't know if I could respond to that.

I can say that there was once a recommendation by the advisory council against a promotion, where I felt a promotion should be given.

This case only occurred quite recently.

Q And that promotion was not given, is that correct?

A That promotion was not given.

Q Now, let's turn to sabaticals—

A I am sorry, I think I have a very definite case of a person whom I felt should not be recommended, and the advisory council recommended it.

As a matter of fact, if I remember correctly it was a vote of three to one in favor of promotion.

And this person was promoted by the president.

Q That is in addition to the recent case you have just mentioned to us?

A Yes.

The recent case was just the reverse.

Q Would you tell us about that, so that the record is clear.

A The recent case is where the faculty advisory council was opposed to a promotion, where I felt for various reasons that the person should be promoted.

[2382] I was trying to persuade the advisory council to change their position on this matter, but the advisory council, I must say in retrospect, I think that they were wise in doing what they did, and acted properly.

I must say that this person was not promoted.

It created a tremendous amount of havoc in the college, by the way.

Q Now, that you have said "created a tremendous amount of havoc in the college", would you explain that, Dean Bacon?

A Yes.

The students, we had a tremendous amount of uphevel in the college caused by the students, which I foresaw.

Q Nevertheless, the decision of the advisory council stood?

A That is correct.

Q Is that correct?

A Yes.

In other words, the important is that the president did not feel—he did not feel that he would want to overrule the recommendation of the advisory council in that respect.

In other words, the president has never overruled, whether it was positive or negative, the recommendation of the advisory council.

[2383] Q The advisory council was created—who created the advisory council?

A By the faculty.

Q Now, would you tell us about how sabatical leaves are handled in the advisory council?

A Well, in a similar fashion.

A faculty member—at one time or another, by going over the listing of the faculty, and when I send out a list to all members of the faculty indicating—I am sorry, I have to correct that.

I send a list to all members who are qualified to apply for sabatical, which is established by our University faculty handbook and to apprise them of the fact that they are eligible for a sabatical, if they have a project and if they desire to have one.

And if they do feel that they would like to have one, they would—they are advised ot send a letter of request to the chairman of the division, with a copy to me, and it is being discussed in the same way as the promotion.

In other words, the person makes the recommendation makes the presentation.

The chairman of the divison makes the presentation with his recommendation, and then the advisory council makes a decision which I then take to the president.

Q Are the recommendations of the chairman generally [2284] accepted by the advisory council?

A Generally they are accepted, yes.

Q And has the president overruled any of the determinations of the advisory council re sabaticals?

A Never, yet.

Q By the way, Dean Bacon, with respect to promotions does the faculty member have an appeal channel open to him?

A Well, we have a University review committee which is a committee consisting of elected faculty members from all the schools of the University.

* * * *

[2386] (By Mr. Kramer) Now, in addition to being division chairmen, are all of the division chairmen also senior faculty members?

A Division chairmen are senior members, right.

* * * *

[2387] Q Now, in addition to the four division chairman who are also senior professors, or as you call them senior members in particular subject areas, there are other senior professors or other senior members and in still other subject areas, is that correct?

A That is correct.

[2388] Q Are these senior professors or senior members also referred to in the parlance of everyday speech of Yeshiva University as chairmen of the department?

A Yes, we talk about them as chairman of the department.

HEARING OFFICER: As noted there are senior professors, chairmen of the divisions.

Is there a requirement that to be a chairman you would have to be a senior professor or is this just coincidence?

THE WITNESS: No, they were elected by the faculty.

They were elected by the faculty.

Q (By Mr. Kramer) Are the senior professors or the senior members, right now I am talking about the division chairmen who happen to be senior members or senior professors, are the senior members or senior professors in each of the department also elected by the members of that department?

A No, they are not.

Q How are they established?

A Well, I will have to say with the one exception of in English, it is the person who has served in the department longest, in terms of years of service.

HEARING OFFICER: What is the discrepancy in the English Department?

THE WITNESS: I think there was simply an agreement in the department that they would have the oldest member in [2389] the department who is Dr. Linn, but by one reason or another I must say I do not know because it was before my time, Dr. Fleisher was considered,

and has continued to act as the senior professor in the English department.

Q (By Mr. Kramer) But otherwise it is the senior professor in the particular subject matter area?

A Right.

Q Now, would you tell us what role the senior members have, if any, in the hiring of full time and part time faculty members?

A Well, he certainly has a very important role in that area.

If it is determined either by the Dean or by the senior member that an additional faculty member might be necessary, then I would ask him to look around, to look over letters of recommendation—letters of applications, and find those whom he would, or she, by the way, would like to interview, and tell him that if after the interview he finds that that person would be a good addition to the college, then I would ask him to bring that person to my office.

At that time I either interview him myself or together in the presence of the senior member.

We then, after the interview, make a determination whether this person should be added to the faculty.

[2390] Q When you say, "after the interview we make a determination—" what do you mean?

A Well, the senior faculty member and myself.

Q How do you go about doing that?

A Well, he tells me—after the fact that he even brought him to me for an interview, that indicated that he finds him acceptable, and then I would like to interview him.

There are all sorts of considerations that have to be taken into account.

Very often we like to withdraw two or three or four people before we made a decision.

A decision is made, basically on his recommendation, on which of the people would be the best one to follow through on, and that is what we are doing.

Q Dean Bacon, in the over 15 years that you have been Dean of Yeshiva College, have you ever appointed

a full time or part time faculty member over the objection of a senior member?

A No, I did not.

Q During the 15 years, over the 15 years that you have been Dean, have you appointed people on the recommendation of senior members of whom you had independent doubts?

A No.

You are taxing my memory, 15 years is a long time.

[2391] MR. KRAMER: I withdraw that question.

THE WITNESS: I am sorry, what did you say.

MR. KRAMER: I withdraw that question.

HEARING OFFICER: While we are on the particular subject area, have there been occasions where a professor has—a professor has recommended or a chairman has recommended that you hire someone, where you haven't hired that person?

THE WITNESS: That is exactly what I said, I never—

HEARING OFFICER: That is not it exactly.

MR. KRAMER: Say it again, Mr. Hearing Officer.

HEARING OFFICER: Have there been people recommended by the chairman who have not been hired on your decision, whether that decision takes into account financial or other aspects of the Yeshiva College?

THE WITNESS: Well, we have never come to this position, because when we discuss the matter, we take into consideration all sorts of factors and we come to an agreement.

And if the agreement is reached between the senior faculty members and myself, that we ought to go ahead, with adding a new faculty member, we follow the procedure which I outlined to you.

That means, then we go ahead with the recommendation of the faculty member.

There is one interesting case, perhaps, which I might [2392] bring in here, where I—where a person was recommended because of a certain situation which has happened now recently, and you probably know that I said in the case of Dr. Levine, who has been the senior faculty member, and I must say legally he is still the

senior faculty member of the chemistry department, but we have now a University chemistry department and the chairman of the department who is a member of the Belfer Graduate School, recommended a part time person to teach in the college.

I asked Dr. Levine about his position, and after looking into the record, he opposed the appointment of such a person.

I sustained his position.

And I must say I sustained it even over the objection of Fishman, the chairman for academic affairs.

Q (By Mr. Kramer) Dr. Bacon, do you generally accept the recommendations of the senior members as to who should be hired?

A Yes.

Q Could you tell us, if you know, Dean Bacon, how much time do the senior members spend in the hiring of part time faculty, during a particular academic year, if you know?

A That would be very difficult to determine, because some department, of course, are much more involved and some [2393] are less involved by reason of the fact that the student population in the various areas.

I would have no indication of how to determine.

Q It would be determined, would it not, on the number of part timers to be hired?

A Yes.

Q The number of candidates to be interviewed?

A That is correct.

There is another thing, for example, the subject matter.

We get hundreds of applications for positions which are forwarded, sometimes they are, of course, coming directly to the chairman of the department—to the senior faculty member.

Sometimes they come to me and I channel them back to the senior faculty member.

These people not only read these recommendations, although, for example, in English, let's say, we may be getting a hundred—it could be more, it could be a little less in a semester, and inspite of the fact that we are at this moment not considering any additions, certainly

not full time additions, possibly part time, but the chairman, Dr. Fleisher, looks through all of these letters and makes notations in terms of qualifications and which must take quite some time, quite a bit of his time.

[2394] But to determine how long, I think it would be very difficult for me to determine.

Q Dean Bacon,—go ahead.

A I am sorry.

Q Dean Bacon, how is it determined whether you will or will not reappoint—

A I just wanted to talk about that.

Q —reappoint an, either a full time probationary faculty member or a part time faculty member?

A Yes.

I wanted to add to that, not only are such decisions upon appointments made with the senior faculty members, but decisions about reappointment and disappointment are also made with the senior faculty.

Q Would you tell us about that, please.

How are the decisions made not to reappoint a full time faculty member or a part time faculty member?

A Well, basically, of course, it is a matter that at a certain time I would get together with the senior faculty member and we will go over the various non-tenure faculty, because in the case of the tenure faculty, there is no question about that.

But in the case of non-tenure faculty, all full time faculty and part time faculty we will go over the list and I will ask him his opinion about the—about the quality [2395] of the person and how he, what contribution he is making to the department and whether he should be reappointed or not.

And on his recommendation, decisions have been made of reappointing him.

Or in cases, of course, in some cases of disappointing such a person.

Q Now, do you generally, not always, but generally accept the recommendations, both positive and negative, of your senior members?

A I could almost say not generally, but always.

Q Is that so with respect to part time faculty?
A With part time faculty as well.
Q And with respect to full time faculty—
A Full time non-tenure faculty.
Q Do you know how much time senior members spend on the appraisal and recommendation process with respect to the non-appointment or reappointment or disappointment of probationary part time faculty?
A I would have no way of determining it.
Some faculty members take it very seriously and they go about it in a very thorough manner.
Sometimes even sitting in in some of the classes, and in some other cases it is perfunctory, but I have no way of determining.
[2396] But it is taken seriously.
Q The quantity of the time spent in the exercise of this authority would depend, would it not, on the number of part time reappointments or disappoints involved?
A That, of course, is understood.
Q Is there an ad hoc committee of senior members Dean Bacon?
A Yes.
Q Tell us about that, if you would, what it does and how often it meets?
A Well, this committee—
Q How is it constituted too?
A This committee is really at my call.
It is a committee of—I might call it ex officio.
Every person who is a senior member will sit on that committee, and whenever I have any problems where I feel that I need advice from them, I would ask them to come to such a meeting and discuss whatever I need advise on.
They meet very irrelgularly.
For example, this semester they met only three times.
Q And last year, would you give us a feel for how many times they met the last academic year, '73-'74?
A I think five or six times.

* * * *

[2398] HEARING OFFICER: Yes.
I have one question, do the chairmen receive any additional stipend because of their position?
THE WITNESS: No.

* * * *

[2432] Q (By Mr. Kramer) Dr. Bacon, I believe we left off our questioning last time with the subject of the Ad-hoc Committee or the committee as it's called of senior members at your university.
Could you give us some additional examples of matters that are dealt with by that committee or have been dealt with by that committee?
A Well, we had—the committee we dealt in that committee we dealt with a number of problems which are important for the college.
For example, we had to make a decision being concerned about the fact that many of the high schools seniors are being accepted to schools—to colleges and we had to make a decision of what to do in regards to our own situation.
We have a high school as you know, and the problem arose that will happen with the seniors in our own high school.
I presented this problem to the senior members, I made it one item on the agenda, and it was unanimously—it was a unanimous decision of that group that we ought to establish what we call now a co-op program whereby we would allow high school seniors from our—from our high schools who maintain or showed certain standards to admit him to the college, not as a college student, not [2433] as full-time college students but they would remain high school students that would be permitted to take courses in—in the college.
This is the coop program now, and it's now—has been in operation now for one semester and it's going to be an item placed on the faculty assembly in about two weeks from tomorrow to explore and find out whether changes would be in order, whether we should continue or we should discontinue it.
That is one such item that was discussed.

Q Dr. Bacon, is there competition today between colleges for entering students?

A It's brutal.

Q Is Yeshiva College affected by that competition?

A We are very much affected by it.

Q Would you tell us about that?

A Well, I don't know to what extent I want to go into it.

I don't want to mention names of colleges around Yeshiva College our college.

Q That was not the intentment of my college that you mention names but if you choose to, fine.

A But the new programs that have been established, especially the City University, is one such important consideration in—in the competition for students [2434] that we have to face.

We have—the one that I just mentioned with juniors and we hear now even sophomores have begun to be accepted by some of the schools in New York.

We have been—we have been approached by a number of Jewish high schools whether Yeshiva College would want to enter and give programs right at the high schools and it was decided we are not going to enter into this picture although it might help us quite a bit in attracting sophomore students.

The only decision that was made is to make exceptions for our own high schools and that's what we are doing right now.

Q Now, does that have a financial impact on the university?

A Well, students, of course, has a definite impact, financial impact on the university.

Q Would you explain to the Hearing Officer how that comes about?

A Well, a student—a student brings in tuition, a student brings in money for living in the dormitory.

A student brings in money for untilizing our cafeteria, and I must say that I don't know exactly what the figure is but the figure was quoted several times, at the moment we lose a student we lose a substantial amount of money

per student, and—and any student who doesn't come, this [2435] is a loss to the university sustained, financial loss the university sustains.

Q The decision to implement the coop programs was made by you and senior members?

A Senior members.

Q The decision to retain that program will be made by factulty assembly?

A Further ramifications will be made by the faculty.

Q I think you told us previously you felling that you are bound by faculty assemblies action?

A I must say that I was very reluctant to bring this program, I am very much—I think that all of us are, faculty is very concerned about maintaining standards in a sea of colleges and universities that have decided to water them down all around us, and I must say I—that I am very gratified to find the faculty feels that way and I must say that I was not—I just presented it as a possibility, and the faculty—the—that committee unanimously decided that we should go ahead with this program.

Q You told us in your earlier testimony a few minutes ago that you decided not to provide the coop program for high schools outside of the university family so to speak.

Would you explain how that decision came about?

[2436] A Well, that—actually—it—

Q As best as you can recall?

A It simply—it was not brought up. We simply didn't go beyond that.

At the faculty—at this senior meeting this matter was explored and we decided at this moment to only go with our own high schools.

So at this moment I don't think there is anything else that I can add to—that I can add to the problem.

Q In other words, the decision was reached by the senior members and you?

A By the senior members, right.

Q Now, would you give us, Dr. Beacon, if you can, another example of the kind of thing you have dealt with at the senior members meetings?

A Well, the one that comes of course to mind is the one that he had only recently which was in response to the document which I—which I mentioned at a previous testimony and that is the—the report by the State Education Department which two very important items were brought up which had some—which will have some very serious affect upon the operation of the college.

One, that new programs and possibly at a future date existing programs will be approved by the State Education Department only if they are competency based [2437] and not as we have it—had it until now simply by students passing certain courses, credits and what have you.

Now, this of course because of the ramifications that it will have on the future operation of the college I presented that aspect to the senior members of the faculty, and we have left it open for further discussion because we really didn't quite understand what the State had in mind when it spoke about competency oriented programs.

We could see a competency oriented program possibly in physical circumstances or in mathematics, in foreign sciences, but we could not understand what it would mean in a case like philosophy or what it would do in English or in French or what have you, so I was asked to explore these aspects and I now have collected the document which I am sending on to all members of the senior faculty and I informed them that we will—we will discuss—that's going to be a matter to be discussed at a future committee meeting, meeting with the—with the senior faculty.

Another item which appeared which has some ramifications, not only for the college but for the entire university, has to do and I also mentioned that in passing before, it has to do with the—with guide lines for—[2438] for tenure.

Guide lines under what circumstances tenure will be recommended for a faculty member which up until now

really didn't exist, and the State Education Department indicated that they will require the university to report to the State Education Department what these guide lines, the university guide lines were.

So obviously what I did is presented this to the—to that committee and the committee decided that it should be brought before the faculty assembly, that the faculty assembly or to recommend it to the faculty assembly that a committe be elected by the faculty assembly to work on that, and that was actually done and I—I think one of the Ad-hoc Committees that I talked about last time as a result of that—of that decision made by the senior faculty, it was presented to the facutly assembly, the faculty assembly elected the members of that committee and—without stipulation who should be the chairman or not so I simply took the initiative calling such a committee, asked them to constitue themselves, elect a chairman and left them to their own devices to do what they want.

Q Now, Dean Bacon, do you have an assistant dean?

A Yes, I do.

Q What is his name?

[2439] A His name is Dr. Wischnitzer.

Q Putting aside Dr. Wischnitzer, do you have any other assistants who work for you—

A Well—

Q —other than a secretary?

A I would say not.

Q Would you tell us as best you can what Dr. Wischnitzer does?

A Well, Dr. Wischnitzer was primarily appointed as the person who would be in charge of the—of the premed program which is a—the strongest program in the college the largest—the largest continuing agent of our students who come to Yeshiva College come as premed majors, and we felt that it would be very important that we have a person who would not only be in charge of the program which of course means that whatever he does is by approval of the faculty, but that he—that he, for a tough premed program which is probably the toughest we have in the college and so this is basically—that

was the—that was the initial appointment under which Dr. Wischnitzer was brought to the college.

He has had—he came to Yeshiva College from a—from a medical school, from Flower Hospital—from Flower Medical School.

In addition, since he has the—the administrative [2440] position of an assistant dean, he is also in charge of some such jobs as collecting the—the classroom—excuse me, the class assignments and hours for the schedule of courses, he collects them at one time or another, about this time for example, he would send a memo to all senior faculty members asking them to—to let him know what courses would be offered in each department or subject area for next year, and time assignments, faculty assignments and he simply collates it and then we put it into the schedule of course.

He also is in charge of collecting and collating faculty publications which we publish once every five years.

Q Does he teach anything?

A He teaches, yes.

Q What does he teach?

A He teaches one course per semester.

Q In what subject?

A In Biology.

Q As a medical doctor?

A He is not a medical doctor, no, he is a biologist.

Q Does Dr. Wischnitzer efforts—do Dr. Wischnitzer's efforts have any affect on the number of students—undergraduate students, that is, that your school is able to place in medical school?

[2441] MR. SCHECTMAN: I object to the form of the question.

MR. KRAMER: I withdraw the question.

Q (By Mr. Kramer) What effect if any does Dr. Wischnitzer's efforts have on the ability of the college to place students in medical school?

A He has an important affect.

Q Would you tell us about that, please?

A First of all, students know that we have such a program and that we have such a man who is very,

very effective, has done—worked out a very efficient way of maintaining records right from the freshman year of the students and the students of course know about that and I must say that we have been—we have been very—in a very good position to and have had a very high, almost incredibley high acceptance rate of our premed majors to—not only to medical schools but good medical schools in the country.

Q Does Dr. Wischnitzer also deal with medical schools to coordinate programs with them?

A No, he does not.

Q What dealings does he have with the medical schools?

A Well, he delivers the recommendations which is one important thing and the collation of letters of recommendation from faculties, from faculty members, and an assessment, in other words, an evaluation of each student which goes along [2442] with these letters of recommendations to whatever medical school a student applies.

Q Does the health or lack of health of the premed program have an affect on the finances of the university?

A I didn't quite understand that health?

Q Or lack of health, either way?

A What is health?

I am sorry.

MR. KRAMER: Withdraw the question.

Q (By Mr. Kramer) Does the functioning of the premed program have an affect on the financing—finances of the university?

A Oh, I think it has.

Q Would you tell us about that?

A Well, if students know that they have a good chance and let's say that they in spite of the fact that we have this tough graduating situation in the college and that we are on record of maintaining standards, and the fact is that students know that if they can survive that they have a good chance of being accepted to a medical school, to a good medical school and that will of course, attract them.

Q Now, you told us a few moments ago, Dr. Bacon, that one of Dr. Wischnitzer's many functions is to counsel students to drop the premed program?

[2443] A That's right.

Q Does that have an affect on the finances of the university?

A It definitely has because a number of students as I said, the largest amount of students that come to Yeshiva College come with intentions as premed majors and if one compares the amount of students who came in with that intention and the amount of students who actually remain to the bitter end as premed majors, there is a definite differential there which is quite obvious.

Q Would it be correct to state he establishes policy in this area?

A No, no, I don't think it would be correct to say that.

Q What does he do in this area?

A Well, he has—he is simply—he is simply guiding the students.

He is simply guiding the students to do and follow the decisions that are being made by the faculty in this matter.

Q How many—approximately how many faculty members, full and part-time work at your college?

A We have about—we have about—we have 36 full-time, 40 part-time and 40 which we consider Yeshiva University full-time, Yeshiva University faculty.

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[2444] Q (By Mr. Kramer) Assuming, Dean Bacon, that the Board were to find that the senior members, division chairmen and your assistant dean are not supervisory and/or managerial employees, you then would be the only supervisor in that college, is that correct?

A That's correct.

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[2454] Q (By Mr. Kramer) Dr. Bacon, do you have departmental advisory committees at Yeshiva College?

A We do.

[2455] Q What is a departmental advisory committee?

A Well, that was a matter discussed and decided on in the senate, and not voted by the faculty.

I really shouldn't put it in the negative sense.

It was approved by the faculty overwhelmingly, that each subject area or each department where we have a majority of a committee appointed by the senior faculty member consisting of two faculty members and two students would—who would meet from time to time and review the programs in the department and make appropriate recommendations.

Q Some of the departments as a matter of practice have more than two faculty members?

A Yes, well, this is the minimum we expect.

In some cases we can't even have them any more because there is only one—a one man team, I think in classics more than one is there—yes.

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CROSS EXAMINATION

[2456] Q (By Mr. Schectman) Dr. Bacon, you defined the full-time load of faculty at Yeshiva College as 12 contact hours [[2457] or its equivalent, did you not?

A Correct.

Q Could you give us—could you define what you mean by equivalent and give us some examples of how that is used at the college?

A We have an executive secretary of the scholastic committee and by agreement it was determined that the he will do any work as a scholastic—as the executive secretary of the scholastic committee, that he will—that his load will be considered as nine hours and the three hours normally he would go into teaching would become —would be the equivalent of that—of the work that he is doing as such—in that case.

Q You said it was agreed, it was agreed between—

A We talked. We discussed it and he felt that would be a nice way of handling it.

Q And it was agreed between that individual and yourself?

A That's correct.

Q Do you normally define or come to agreement with individual members of the faculty as to determining their equivalent status for full-time definition?

A There are only two faculty members in the college who are in that category.

Q Who is the other?

[2458] A Dr. Wischnitzer who was determined as the assistant dean.

Q And was the definition of his equivalency likewise arrived at between your—his agreement with you?

A I don't remember at this moment whether Dr. Chandler was involved who is the senior member in that —he certainly was involved as far as the biology was concerned but in determining whether this would be the equivalent or not, I must say I don't remember now but I would guess that it was determined between him and myself.

Q And have other faculty members in the last three academic years made requests for some equivalent status to you?

A I have no recollection.

Q In the last three academic years have any other faculty members had some equivalent status for full-time definition?

MR. KRAMER: May I have that question read back before you answer it?

(Record read.)

A There was one faculty member who in his function as the senior faculty member of the largest department in the college in English and is the chairman of the division who also has this kind of equivalency.

Q He has it at the current time?

[2459] A He has it at the current time. I must say I forgot about that, yes.

Q Was that reached by his agreement with you?

A That was, yes.

Q You referred, Dean Bacon, to the Yeshiva program, could you tell us what that is more particularly?

A The Yeshiva Program is a program which is really not under the jurisdiction of the college, but it is the

Talmud Department where the students—I think it would be important to explain that all our students admitted to the college must agree to participate—to participate in a Jewish study program.

They can do it by either—by either doing it—doing the academic work in the James Dreyer School or in the Erma Michael College or in the YP Program so really the James Dreyer School is a school separate from the college and just as the Erma Michael School is a school separate from the college the UP—the YP Program is also a school separate from the college.

The only contact that we have is that all those—these students who are in the program are mandated to take certain courses in the college, like Hebrew, two years of Hebrew, two years of Jewish history and eight semesters of Hebrew language and literature which is basically courses in the Bible.

* * * *

[2465] Q On other occasions you indicated that once a faculty member had some equivalency status, that was worked out between you and the faculty member?

A Yes.

Q Is that likewise the case with Dr. Ginsberg?

A Yes, I think it was worked out with him.

Q How did you determine what kind of equivalency he should get or to what extent he should get an equivalent status?

A It was again his suggestion that it be done.

Q Did he explain what he did in the Yeshiva Program to you?

A No, he didn't.

But in what they—because—basically what they do. They give a lecture which we call a Sheur.

Q Could you spell that?

A It's a Hebrew term.

I don't know how you want to spell it, you could really translate it as S-h-e-u-r, maybe apostrophe between the E and the U.

Q It would be helpful to the record—to the reporter.

A I must honestly say that I have never explored it beyond that.

Q Where are these lectures given?

[2466] A They are given in the classroom.

Q At the Yeshiva College?

A Well, we don't have a classroom or building which is Yeshiva College. It's the uptown center.

We have a uptown center and that uptown center Yeshiva College courses are being given and ENC being given and JSS courses are given and YP courses and Belfer courses are given so there is no such thing as saying this is Yeshiva College and this is Belfer and this is a Belfer building.

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[2482 Q (By Mr. Schectman) Dean Bacon, you testified on direct examination with regard to the faculty statutes at Yeshiva College and with regard to the constitution of the college as well.

Were either or both of these documents referred to any of the members of the administration for approval?

MR. KRAMER: I must object to the reference to the witness' prior testimony.

I am sure it's inadvertent but it's the constitution of the Yeshiva College Senate, not of the college.

MR. SCHECTMAN: Excuse me.

Thank you, I am referring to the constitution of the Yeshiva College Senate and the statute for the Yeshiva College faculty.

Q (By Mr. Schectman) Were either of those documents referred to any members of the administration for approval or review?

A Yes.

Q Which one?

A Both.

[2483] Q And to whom were they referred?

A The president.

Q Did the president review these documents?

A I assume—I presume he did.

Q And did you receive any response from the president of his review?

A I received a response to the Senate, it was approved as presented, and I received a response from the president in which he responded to some difficulties that

—that the faculty found with the—with item—I think it's item three, is it Roman Number III that has been scratched out—

Q Yes, that's correct.

A —and referred it back and asked that the faculty look at it again.

Q Did the faculty look at it again?

A They looked and looked and looked, yes.

Q And was the position of the president finally effectuated?

A No.

Q What was effectuated?

A Actually we have a kind of limbo situation where we operate the faculty indicated in terms of—in terms of divisions which of course has been approved and has been in operation in the college for many years [2484] before I came, and that we operate in terms of subject areas and senior faculty members, these are the defacto operation as far as the college is concerned.

• • • •

[2496] Q And what rank of appointment is made to full-time faculty members?

A That again depends upon what has been arranged in our discussion with the senior faculty member and that faculty member who is being appointed, the arrangement is made before the appointment, he agrees to accept position A. B. or C. and that is the appointment that he gets.

Q What are the possible positions A, B, and C?

A He could come in as an instructor. He could come in as an assistant professor.

He can come in as associate professor.

He can come in as a full professor.

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[2502] Q Is there a Budget Committee at the—at Yeshiva College.

A No.

Q Is Yeshiva College—

A Except the welfare, the Yeshiva College Welfare Committee may—may function, and certainly will function this year in that area—capacity.

Q Do you take part in establishing a budget for Yeshiva College?

A Yes.

Q And who else takes part in that process including any people from Yeshiva College if any and people outside Yeshiva College connected with the university?

A Well, Yeshiva College budget is determined by the salary and the—salary of the faculty and by the expenses that go along with the laboratory equipment.

So to a certain extent while there is nobody sitting and determining whether it's going to be so much and so much and I would say that there are—that they [2503] are partners in the establishing of the budget.

Q Well to the extent that discussions are had with regard to the budget and advise or recommendations or concrete consultations are made what parties take part in that process with you?

A Well, all I know is that I receive requests from senior faculty, whether it's chemistry or physics, whether it's biology for equipment which are being approved as a—as a formality and the rest of it has to do with the—has to do with faculty salary and fringe benefits and another portion has to do with student activities and that is the extent of the budget of the college.

Q Do you consult with Mr. Sokal with regards to the budget at Yeshiva College?

A All I do is add up salaries, fringe benefits, equipbent that we had last year, and send it on.

Q Do you ever request any special funds or any miscellaneous amounts on that budget or for any other purpose other than those you have indicated?

A In terms of student activities I sometimes do, yes.

We have such a thing as a debating society which goes on tours in the United States and these are subsidized by the college.

Q Is the Yeshiva College budget known to or accessible to the faculty of Yeshiva College?

[2504] Q Have you ever been asked to discuss the budget or the details of the budget in any faculty meeting?

A No.

Q No?

A No.

Q Was a new library recently built at Yeshiva College.

A That's right.

Q Was the library committee standing at that time?

A I think it was the university library.

Q Was there a library committee at the Yeshiva College standing—in existence at the time?

A Yes.

Q Did that library committee receive any copies of any access to the plans and designs as to that library?

A Representatives of the library committee were involved in the planning of the library.

Q From the Yeshiva College library committee?

A From Yeshiva College and other schools too.

MR. KRAMER: Can I have the answer read back, please?

(Record read.)

Q More specifically were any full-time members of the faculty on the library committee at Yeshiva College consulted or otherwise take part in the planning or development of the new library?

A The answer has to be yes.

[2505] Q And who was that?

A I have no idea.

It's six, seven, eight years ago.

Q On what basis then do you make your answer?

A Well, I do remember that—that we—that we wanted to get the input from the various schools about the library just as we had been doing in some of the other buildings, like the building that—which houses Yeshiva College right now.

Q Do you remember if Dr. Whitehorn was on that committee at that time?

A I don't remember if Dr. Whitehorn was a member of the Yeshiva College faculty at that time.

You must understand that the plans for the library were conducted years before the library was built.

Q Who formulated the tenure policy of Yeshiva University?

A Then tenure policy was basically formulated a number of years ago by a faculty committee which was—which had representation from various parts of the university and the chairman of which was Dr. Fleischer, that was a number of years ago who made his—who submitted the result of that—of their deliberations.

Q Was there a recent change made to the tenure policy at Yeshiva College?

A Yes, there was.

[2506] Q Was that change pursuant to the recommendations of the committee you just referred to?

A No—well, the change—that committee was in existence many years ago.

This is—the present policy I think it was about two and a half to three years to kind of make it—to come to the final—to the final state of it, and in each stage, in each of the phases, until the final stage, Welfare Committees of the various schools were consulted.

Q And who finally set the—who consulted with the Welfare Committees?

A I did.

Q And—

A And in fact the last—before the final, the last meeting that I had about this matter was with representatives of the Belfer Graduate School and Wertzweiler School.

They had some questions about it and we went ober each one of them and I think a good number of the recommendations were incorporated.

Q What individuals or body made the final decision in formulating and adopting the new tenure policy?

A The Board of Trustees.

Q And before the Board of Trustees was there any individual or body of persons at the university who made a recommendation to the Board of Trustees?

[2507] A The—the final document actually was drafted by myself after consultation with these various committees and as I said drafts—as the changes were made they were submitted to the various faculty—welfare committees of the various schools asking for the input, and the final draft was then presented to the executive council.

Q The executive council of the university?

A Of the university.

Q Are there any faculty on the executive council?

A No.

Executive council of the university, the executive council of the university also had their input and changes of these were again distributed to the various welfare committees of the schools and then finally it was presented as a—as a document by the executive—by the executive council to the Board of Trustees through the president.

The revised tenure statement was a liberalization of a statement which was in existence, I think I ought to bring into the hopper too.

At the time when most of the schools were eliminating tenure policies or considering eliminating tenure policies.

Q You indicated that division chairmen at Yeshiva College in consideration of new courses or the establishment or adjustment of credits I believe, that the division chairman [2508] would call meetings of the divisions and make decisions in that regard, is that correct?

A That's correct.

Q And when they called these meetings will the faculty members within the division be present?

A I presume so.

I am not present so I could not determine it.

Q Is it your understanding that they take part in the consideration?

A I think that's my understanding, yes.

Q And is it your understanding they submit advise as to adviseability of new courses or credits allowances and so forth?

A I don't know.

We have to separate that, because—because the—these things are being initiated in the departments by individual faculty members.

This is really the second instance.

Q And then they will meet as a body and discuss it at length?

A Yes.

Q Will they vote at these meetings, do you know?

A Either vote or consensus.

Q Now, you indicated the—that the advisory council will deliberate—

[2509] A At least I hope so.

I have never been present at any of these meetings except in the first years when I was—I participated in some of the meetings of the—of the division of language and literature.

Q Now, you also indicated that the advisory council, or chairmen will sit with you and you will deliberate on requests for promotions and sabbaticals, do you not?

A That's correct.

Q Will, to the best of your knowledge, the division chairmen be conscious or considerate of the opinion of the other faculty members, if you have any knowledge?

MR. KRAMER: I have to object to the use of the word conscious.

MR. SCHECTMAN: I will strike the word.

MR. KRAMER: The witness can't creep within the consciousness of the division chairmen.

MR. SCHECTMAN: I will strike the word.

I will rephrase the question.

Q In your meetings for instance in consideration—in considering promotions for faculty members, will division chairmen reflect any consensus or any vote or any opinion of the other faculty members of the department or division?

A No.

[2510] Q Are they acting to the best of your knowledge on their own personal opinion?

A I a good number of cases that's the case.

In some others the advisory council asked that information be collected on—on such a faculty member and in this happened only very recently, last year.

Q And how was that information collected?

Did you consult with other faculty members?

A I didn't.

Q Did they consult with faculty members?

A The chairman of that committee did.

HEARING OFFICER: Off the record.

A Excuse me, not the chairman of that committee.

I am talking about the chairman of that division. He was asked to get information from the senior member of the department and he was also asked that the—some information be brought from another school, in this case it was the Department of Mathematics of the Belfer Graduate School.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

A I would almost thing that was the exception in cases.

Q Now with regard to the termination of faculty, were you—you indicated,—you indicated in your direct [2511] testimony you will discuss the matter with the senior faculty member?

A I most certainly do.

Q And will you—are there occasions that you will consult with or the senior faculty member will consult with other members of the department?

A No.

Q And the decision is made solely on the basis of the personal judgment of the senior faculty member?

A Sometimes the chairman, the divisional chairman.

Q Will the division chairman ever consult with to your knowledge other members of the division with regard to these questions?

A My indicated guess will be no.

Q The division chairmen are elected are they not?

A That's correct. Was elected, as I testified many years ago.

Q Are division chairmen paid according to the faculty scale—according to the salary scale in existence at Yeshiva College?

A That's correct.

Q Do they receive any special stipend?

A No.

Q Do senior faculty members receive any special stipend for that position?

A I am sorry?

[2512] Q Do senior faculty members receive any special stipend for that position?

A No, with the exception of this one person I mentioned before.

Q Are senior faculty members paid pursuant to the existing salary schedule at Yeshiva College?

A That's correct.

* * * *

[2516] Q You have listed Dr. Wischnitzer—did I pronounce it correctly?

A Correct.

Q —On Employer's Exhibit 110 as a full-time faculty member in the Department of Biology, have you not?

A That's correct.

Q Is he paid pursuant to the effective salary schedule for full-time faculty at Yeshiva College?

A That's right.

Q Does he receive any special benefits for the role he playes as assistant dean?

A None, except equivalency.

Q The—you testified that Dr. Wischnitzer worked with the premed program.

Does the fact that—that a student drops his premed program necessarily mean that he no longer is a student at the university?

A No that's not—it doesn't follow at all.

Q In fact dont some students drop their premed program and take other majors, and continue as students?

A That's correct.

[2517] Q And does it necessarily or does it most usually follow when a student drops his pre-medical program that he leaves the university?

A A good portion of them do, yes.

Q About how—about what portion?

A I have no idea.

Q More than 50 percent?

A I have no idea.

I can tell you that two students yesterday—two students yesterday—if a student requires—ask for a transfer to another school I make it my job to—to speak to the student because obviously I am trying to keep them, and I had two students yesterday who indicated that they are going to leave the school.

Q Dean, you are a member of the faculty of Yeshiva College, are you not?

A Yes, I am.

Q Is your faculty determined according to the salary schedule in effect for the faculty at Yeshiva College?

A No.

I get a smaller salary check than some of my full-time faculty. And some faculty members didn't believe it and I showed it to them.

My full-time load is more than 12 hours too.

* * * *

[2525] Q Excluding the Board of Trustees what body at the university has the authority to deal with university wide policy and procedure?

A Well, I would probably have to list three such groups.

That's the Executive Council,—

Q Is that—

A —the undergraduate—the council of undergraduate schools and the council of graduate schools.

Q Are there any faculty on the executive council of the university?

A No.

* * * *

[2528] Q Employer's Exhibit 114 list department—departmental advisory committees?

A Yes.

Q What is the authority of these committees?

A As I testified this authority was established by the Senate, approved by the faculty.

[2529] Q But what I am—could you be more specific as to what authority they have?

A Oh, I am sorry.

I thought that you—

Q What comes within the purview of their authority or what may they act upon?

A Each department—each department is suppose to have—each department in which there is a major in the college is suppose to have as I indicated before if at all possible two faculty members and two students and they discuss the problems of the department, discuss possible innovations, possibly discuss possibly extension, expansion, and they make the appropriate kind of—explore weaknesses.

Q And to whom will they make their recommendations or submit their advise?

A Well, they will—they should according to the Senate—a decision should be—should be made to the Senate.

Q Will often a departmental chairman or senior faculty member—excuse me, will a divisional chairman or senior faculty member ac' at times in consultation with these committees?

A Well, the Senate will not—the Senate will then make a recommendation—will have to go back to the department and then go to the department division, etc., committees and what have you.

[2530] Q Taking into consideration then the—

A The recommendations.

Q —the recommendations and deliberations of these teachers and students listed on this exhibit?

A That's correct.

Q Just going back to one area very briefly, in testifying with regard of regarding the budget you said you merely added up requests for money for labs and faculty salaries and so on.

Has there ever been a conflict as to priorities where there was not sufficient money to meet all those totals?

A I must say that the college, Yeshiva college was not put in that—in that position where such priorities had to be established.

We are working on a—a—on a minimum budget and that's the way we are working.

Q Have you always been able to meet the requests for budget allotments from—from people in your college?

A That's correct.

Q You have never had to deny a request?

A I would—sometime when I see it's exorbitant I would go back to the senior faculty member and ask him to explain it to me, and if upon explanation—sometimes he will from his own say say maybe we dont need it today and [2531] then he changes it, but I would say in 99 percent of all cases it went right through.

Q Have other members—

A With my—with perfunctory kind of approval on my part.

Q Have other members of the university administration ever rejected any budget request you have submitted?

A I am not—I am not—I don't remember, no.

I cannot recall any such thing.

Q So your budget requests are accepted in total?

A My budget—well, it is a matter of paying salaries of faculty which has been agreed upon and there is a minimal amount of—of laboratory equipment that has to be—that has to be purchased, and that's all there is to it.

Q Was there ever a freeze—faculty freeze at Yeshiva College?

A Yes, there was one year.

Q When was that?

A I don't even remember the year but I think it was two or three years ago.

Q In that case did you go back to senior faculty members and tell them that their budget demands were exorbitant?

A No, at that time it was decided that there would be no faculty increase.

Q How was that decided?

[2532] A It was decided by the president. It was an emergency situation and the university made the decision.

* * * *

Q (By Mr. Schectman) Dean Bacon, you testified with some specificity about the standing committees at Yeshiva College.

[2533] You did not so testify with respect to the Welfare Committee.

What authority does the Welfare Committee have?

A Well, let me just respond to the first part of your comment.

All the other committees sent minutes to the—to—sent minutes, copies of which I received and became part of the record.

I felt that the Welfare Committee and by the way I am a member—member of all these committees by request of the faculty as you will see in the statute, and—the same situation doesn't pertain to the Welfare Committee?

A The functions of the Welfare Committee are those that the Welfare Committee sets out for itself.

Q You are on this committee are you not?

A No, I am not.

That's exactly what I said.

Q This is a committee you are not on?

A That's the only committe I am not on.

Q Are you at all familiar with its functions?

A I have some very good relations with faculty.

Q So are you at all familiar with there—with their functions on the Welfare Committee?

A Well, as the name indicates, the Welfare Committee is [2534] concerned with the welfare of the faculty.

Of the Yeshiva College faculty.

Q Are there any senior professors on the Welfare Committee?

A I—I don't think so.

Q I will show you a list of—

A Are you talking about senior professors, not—senior faculty?

Q Senior faculty members.

A Yes, you must understand that this committee is elected by the faculty so that's it.

* * * *

[2535] Q (By Mr. Schectman) Are divisional chairmen excluded from eligibility for membership on the—on this committee?

A No.

Q Are senior faculty excluded from eligibility?

A No.

I think it's probably a coincident that you find this time no—just a minute, Dr. Tauber is a senior faculty, is a senior professor.

Q Dr. Seed I think is also—

A And Dr. Fleischer was on the committee up until—

[2536] MR. KRAMER: Would the Hearing Officer caution the witness that he is to only answer questions that are only asked him.

That's the proper way to proceed.

HEARING OFFICER: Please wait until the question is asked before volunteering.

THE WITNESS: I learned that in the Army.

HEARING OFFICER: Never volunteer.

MR. KRAMER: It may have been a long time ago.

A 1942, right, to '45.

Q What have been the most recent functions of the Welfare Committee that you are aware of?

A The Welfare Committee together with the—with the Stern College Welfare Committee were negotiating salary arrangements for the faculty.

Q And have these historically negotiated the effective salary scales at Yeshiva College?

A They have.

Several times in the history of the college and Stern College.

Q Do they negotiate the effective salary rates for part-time faculty?

A No.

Q Do they negotiate effective salary solely for full-time faculty?

A That's correct.

[2537] Q They negotiate the effective salary for departmental chairmen?

A No.

Q For Divisional Chairmen?

A No.

Except that they are faculty members, there is no difference there.

Q I see.

So then the affect or the results of the bargaining of the Welfare Committee affects divisional chairmen and senior faculty members and regular faculty members alike, am I correct?

A It affects the Yeshiva College faculty, fulltime faculty.

Q And with whom do they negotiate?

A Bascially with Dr. Sokal.

Q Dr. Sokal is?

A The vice president for financial affairs.

Q Will you take part on—in these negotiations many times?

A I did.

Q Pardon me?

A I did, on the side of the faculty.

Q In what capacity were you present at such—such a meeting or in such a context were you so there?

[2538] A As the person very much concerned with—about the welfare of the Yeshiva College faculty.

Q What other matters besides salary for the faculty at Yeshiva College will the Welfare Committee do?

A I am sorry, I didn't hear.

Q What other matters than salary will the Welfare Committee at Yeshiva College be concerned with?

A Well, again, you are asking to look into a crystle ball.

Q No, I am talking about the recent past in your recollection.

A But in the recent past they were talking about—about the salary increases, of course, they were talking about fringe benefits.

Q Only as they pertain to full-time faculty?

A As they pertain to full-time faculty.

There was also some—also some discussion as far as part-time faculty is concerned.

Q Was there any resolution or any action on that?

A No.

Q Was—

A I think by mutual agreement it was eliminated.

Q And that was the agreement of the university as well as the Welfare Committee?

A I said mutual agreement. I am not talking between the [2539] vice president for financial affairs and myself.

Q And in your recollection has the Welfare Committee been concerned with matters other than salary and fringe benefits?

A Now you are taxing my memory and I don't know.

Q Take a moment.

A I don't know.

Q You can't recall any other action by the Welfare Committee?

A No.

• • • •

[2548] Q Has there been any policy established at Yeshiva College with regard to increasing or decreasing the respective teaching loads of the full-time or part-time faculty at the college?

A Some—there was some discussion about it which as far as I am concerned was—there was no change in the full-time load of the faculty.

Q With whom was that discussion?

A With the faculty. With the faculty Welfare Committee and at the negotiations of the faculty—with the faculty Welfare Committee some people proposed that this should be taken into consideration but it was never followed through and it was never—it was never acted upon and the regulation of 12 hour load is still in effect.

It is still in effect.

Q So the faculty Welfare Committee has considered other matters besides salary and fringe benefits?

A I don't think you can call that they consider it.

[2549] That was in an initial statement made by Dr. Sokal when the committee met.

It was certain—introductory statements made which to the best of my recollection have never been brought back again and never became really a serious matter in the discussion of the—of the Welfare Committees.

• • • •

RECROSS EXAMINATION

[2554] Q (By Mr. Schectman) Dean Bacon, do you know of any occasion on which the Welfare Committee at Yeshiva College has ever tried or suggested or in any way composed any disciplinary measure or fine or anything of that nature against faculty members at Yeshiva College?

A No, but he talked about it.

* * * *

[2593] Whereupon,

JACOB RABINOWITZ

called as a witness, was duly sworn and testified as follows:

HEARING OFFICER: State your full name.

THE WITNESS: Jacob Rabinowitz, R-A-B-I-N-O-W-I-T-Z.

DIRECT EXAMINATION

Q (By Mr. Bodner) Dean Rabinowitz, by whom are you employed?

A Yeshiva University.

Q In what position?

A As Dean of Erna Michael College of Hebraic Studies.

Q Where is that college located?

A At the Uptown campus.

Q What is the primary responsibility of that college?

A It is one of the three morning divisions of the University, and its curriculum is a, basically, to Hebraic studies, as its name implies.

It has a number of functions, one of which is a professional function, to prepare teachers for Jewish education.

Q How long have you been Dean of Erna Michael College?

A Since 1968.

[2594] Q What position did you hold prior to becoming Dean?

A From '66 to '68, I was Dean of Undergraduate Students in charge of, basically, student services, and—

Q Was that undergraduate students for Erna Michael College?

A No.

Undergraduate students for the entire University, and included Stern College For Women.

Q Prior to your function as Dean of Undergraduate Students?

A From '57, I think it was '57, through '66, I was at Stern College For Women, as instructor in chemistry, and sometime after '57, I guess it was about '61 or so, Director of Guidance for Stern College.

I had also been a faculty member of the James Striar School of General Jewish Studies.

Q Do you currently hold faculty rank in Yeshiva University?

A Yes.

Actually, I have two ranks.

One is an Assistant Professor of Chemistry, and the other one is an Associate Professor of Talmud.

Q Have you taught courses at Yeshiva University?

A Yes, I have.

Q How recently?

[2595] A I'm teaching now at Erna Michael, six hours a week.

As I've indicated, I taught at Stern College, analytical and physical chemistry; at the James Striar School, I taught Bible; and way back in, I guess it was '49 or '50, I was an Assistant in Chemistry at Yeshiva College.

Q Are you also a member of any university-wide councils or bodies?

A Yes.

The Executive Council, the Undergraduate Council.

By bodies, you would include committees?

Q Yes.

A The University Budget Committee.

Q When you mentioned the Undergraduate Council, do you, in that capacity, also have a role in the Committee on Academic Priorities and Resource Allocation?

A Yes.

The Committee on Academic Priorities has its membership composed of the members of the Undergraduate and Graduate Council.

One who is a member of the Undergraduate Council is automatically a member of that committee.

Q I see.

Dean Rabinowitz, in preparation for this hearing, [2596] did you, at my request, prepare an exhibit, listing the faculty of Erna Michael College in the fall of 1974-75?

A Yes, I did.

I had it prepared in my office.

Q Is this the exhibit that you prepared?

A Yes, it is.

MR. BODNER: Mark this for identification, please.

(Employer's Exhibit 115 was received and marked for identification, of this date.)

Q (By Mr. Bodner) Dean Rabinowitz, would you look through that Exhibit and tell us what is the designations in the lefthand column, the furthermost column, represent, beginning with the word, "Bible?"

A These designations are subject areas.

We do not have a department set up as such, but our school is divided into these eight subject areas, and they are listed in that first column on the left.

Q Okay.

The next column is headed, "Full Time Faculty."

What does that term—

A That is full time faculty.

People teaching a minimum of twelve hours per week, but not necessarily all in my school.

Some of these people are completing their full time duties at Erna Michael College by being assigned [2597] to other units of the University.

* * * *

[2598] Q Okay.

I notice in the column labeled, "Full Time Faculty," there's a designation next to certain names, such as Dr. Herskovics, in parenthesis, "Sr., Prof.," end parenthesis.

Would you tell us what that stands for?

A Yes.

That is a Senior Professor designation.

It is in lieu of the chairman status. We don't have chairmen, as such.

There are three such people.

Dr. Herskovics in Bible; Dr. Leaf in Hebrew; Dr. Carmilly in History.

All of these people were in that position prior to my arrival at Erna Michael, and they are utilized much the same as chairmen are utilized at other units of the University.

* * * *

[2615] Q (By Mr. Bodner) Dean Rabinowitz, in preparation for this hearing, did you also, at my request, prepare a list of the Committees at Erna Michael College, and a roster, indicating the names of the faculty members who currently sit on those Committees?

[2616] A Yes, I had such a list prepared.

MR. BODNER: I would ask this be marked for identification as Employer's Exhibit 117.

(Employer's Exhibit 117 was received and marked for identification, of this date.)

Q (By Mr. Bodner) Dean Rabinowitz, the names of the individuals listed next to each of the Committees, would you tell us, are these all faculty members at Erna Michael College?

A Yes, they are, but can I offer two corrections to this, as I see them here?

* * * *

[2617] Is it correct that all of the individuals listed on this list are faculty members?

A Yes, they are.

Q Are there additional student members of the Student Faculty Committee?

A Yes.

The Student Faculty Committee has three student members, chosen by the Erna Michael College Student Council.

Q Do any of the other committees have student members in addition to the names of the faculty members listed on this Exhibit?

A Well, Delegates to the Undergraduate Council are similarly chosen by the student council, to serve on that Undergraduate Council, so they would have student members, too.

* * * *

Q All the committees listed at the top of the sheet, Student Faculty, Admissions, Academic Standing, Library and Delegates to Undergraduate Council, are these all [2618] current committees?

A Yes, sir, these are current committees.

Q I notice, at the bottom of the page, you have examples of ad hoc committees, which existed in previous years.

Are there other such committees, other than the two examples you have listed here?

A Yes, there are.

There was a very important committee, a Curriculum Committee, which existed for about three or four years after I first became Dean.

It was actually that committee which set up the current framework of this school.

Now, we don't have such a committee today, because in lieu of that committee, we meet as committees of the whole for each subject area, and once the curriculum structure, course sequence, requirements for graduation, et cetera, were set up by the original Curriculum Committee, it now is a matter of keeping things current, and making such relatively small changes as are needed in a year-to-year operation, and these changes and evaluations are done by regular meetings of the various subject area faculty members.

* * * *

[2620] Q (By Mr. Bodner) Dean Rabinowitz, do the faculty members of Erna Michael College meet as a body to discuss, make decisions on matters of interest to the faculty?

A Yes, they do.

Q In what form do they hold those meetings?

A It's—

Q What designation?

A We call them faculty meetings.

There's no other designation, such as faculty assembly or something on that order.

[2621] Q Are there written by-laws governing such meetings?

A No, there are not.

Q Okay.

A Erna Michael is a relatively small faculty, and there were no by-laws when I came in as Dean, and we operate fairly well together, I would say, really very well, and we found no need for, you know, written constitutions or by-laws.

Q Could you briefly describe the subject areas that would be involved in faculty meetings at Erna Michael College?

A Well, they could range anywhere from the beginning of the educative process, which is the admissions process, all the way through certifying student for candidates for graduation.

And, in between, we would have curricular matters, grading, attendance, scheduling, whether they're course schedules, calendars, things of that order.

I can think of virtually no area which could not be handled at a faculty meeting, provided that it was germane to the Erna Michael College school itself.

Q Are faculty meetings at Erna Michael College, also taking up matters that might be considered in the nature of the working conditions of the faculty; that is, matters of faculty salary, tenure, promotions, standards, and the [2622] like?

A Let me take those one at a time.

Faculty salaries, there was, at one time, a Welfare Committee at Erna Michael College. We don't have such a commitee today, because the faculty, by virtue of its, again, small size, found it much more expedient to simply latch onto the Welfare Committees of the other universities, and, in the past, whatever has been—whatever adjustments, whatever agreements have been reached by the University, between the undergraduate schools, through their welfare committees, has also applied, by and large, to Erna Michael College.

Q You said, "—the other universities."

Did you mean by that, the other University schools?

A The other graduate schools of the universities, I'm sorry.

So, that question does not really come up.

I mean, there are only in an information sense.

They will ask somebody to report on what is happening in a welfare committee there, and will come back and tell them.

Q With regard to other working conditions?

A Well, as far as teaching hours are concerned, for example, when I came into the school in '68, Erna Michael College had a twenty hour per week curriculum for freshmen [2623] and sophmores.

Juniors and seniors were on, I think, a sixteen hour per week.

The faculty, during these first—this first year or year and a half of serious evaluation of the entire school and where it was going and what its purposes were, and how it could best be structured, the faculty came to the conclusion that this was too much of a load to be asked of students, and they approached this from an educational point of view, and, in the process of cutting down the numbers of courses, and changing credit hours, in many cases from two to three, and three to four, or things of this order, in order to decrease a student's involvement with eight or nine different courses and eight or nine different final exams, et cetera, also cut down the hours and made a four day a week school, as opposed to five days a week.

It used to run Sunday through Thursday.

It now runs Monday through Thursday.

Q This would affect the working hours, so to speak, of the faculty?

A Yes.

This affected working hours, the days they had to come in, you know, other matters.

In other words, right now the scheduling of [2624] working hours is done so as to permit a faculty member to finish his direct teaching responsibilities in three days a week.

Now, he may come in, of course, five or six days a week, his office is open to him, and I would welcome, of course, you know, such increased participation, if he chooses.

But, the direct teaching responsibilities and office hours, et cetera, can be confined to three days a week.

Prior to this change, it was more than likely, it would have to be at least four.

Q Would the number of hours that a student takes each semester, have an effect on the working hours, if we can use that phrase, of both full time and part time faculty?

A Yes, it would have affected—it did affect both part time and full time people.

Q Would you tell us any additional subject areas that the faculty meetings take up with regard to what we have broadly described as the working conditions of faculty members, to use a phrase the Board has used?

A Well, as I've indicated, I can conceive of no subject matter which would be taboo at a faculty meeting.

So long as it was germane to the Erna Michael [2625] College operation, itself, and in the past, at no meeting that I have attended at the Erna Michael College faculty, and I've been to all of them, has there ever been a subject which was raised and deferred or pushed off on that basis, that it was not a matter to be discussed at a faculty meeting.

Q Have the subjects that have been brought up, been brought up by both full time and part time faculty members?

A Yes.

The meetings are open and all members of the faculty are invited and urged to attend, and there is absolutely no distinction in terms of meetings, participation, et cetera, between part time and full time people.

Q Did the decisions made at those faculty meetings, affect both full time and part time faculty members?

A Yes, they did.

Q Dean Rabinowitz, do you attend the meetings of the faculty at Erna Michael College?

A Yes, I do.

Q In what capacity do you attend?

A I preside at those meetings.

Q When you say, "preside," do you have a vote in the determinations of those meetings?

A No. No, I don't vote.

Q Can you veto the decisions made at those meetings?

[2626] A Can I veto?

I guess it's an academic question.

Q Have you ever vetoed?

A No. No.

And there have been, I must say, instances where the faculty has acted contrary to what I, you know, I, myself, would have chosen, had I, you know, been able to act unilaterally, so to speak.

Q Can you give us an example of something of that nature, where the faculty's decisions were not within your personal wishes?

A I think I can give a number of examples.

When I first—Back in '69, I made, what I thought, was a very good suggestion with regards to calendar reform, to ask the faculty to consider a tri-mester calendar, rather than a, you know, two semesters, so as to decrease tension and conflict with—within the student, you know, with regard to his dual program responsibilities.

That was simply talbed and never heard from again.

A—Another suggestion—

Q Can we stick with that one?

A Yes.

Q When it was tabled, who was it tabled by?

A By the faculty.

[2627] Q After it was tabled, were you able to introduce it, despite the non-desire of the faculty to institute that program?

A Well, I made a number of informal inquiries with some members of the faculty, and I felt that I wouldn't get anywhere with it, so I never formally brought it up again.

Q Did you regard the decision of the faculty to table it, as binding on the policy of the school in this area?

A Yes, I did.

And we are now on the semester system.

Q Okay.

Are there any other examples where the faculty made a decision that you, personally, did not agree, but felt was binding on you?

A Yes.

In terms of grading policy.

The faculty had introduced a P. N. grading system, that would be a pass, no credit system, to apply to a course per semester, according to the student's choice. It had introduced this on an experimental basis. After the year's experiment was over, the faculty felt that it did not work terribly well, and they wanted to put in a restriction, giving the instructor the right to voto a [2628] P. N. choice on the part of a student.

I felt that this was very unwise. I pointed out that one of the wonderful things about the P. N. system, is that the faculty member does not know which student in his course is taking a course P. N., so he can then treat all students alike.

The faculty responded, nevertheless, a student who is on a P. N., with a no credit, sometimes exhibits such a total lack of interest in the course, that he not only hurts himself, but is liable to hurt other students.

We had a long, you know, it was a long debate in the faculty about this, and they voted to put this system into operation, and they did.

I must add that it operated for a year, did not operate very well, and the faculty then, again, reconsidered the question, and went to a P. F. system, which is a pass-fail system, rather than the pass-no credit, and that seems to be working out much, much better now.

Q Have the faculty's decisions on the matters that you have mentioned, and other academic matters, ever been vetoed by yourself, as Dean, or the Vice-President of Academic Affairs, by the President, or by the trustees of the University, where they pertain to the Erna Michael College?

A Never. Never.

[2629] I may add, with regard to that P. N., that it was a difficult time for me, because I was sort of caught by the students on the one end and the faculty on the other.

The students were pressing very hard for this P. N. system, and they felt that it was much to their educational advantage to have it, and, as I say, I—it was a difficult year for me, by virtue of that faculty decision.

Q Dean Rabinowitz, returning to the nature of the faculty meetings, how are decisions arrived at in those meetings of the faculty?

A Most of the time by concensus, but there will be some questions upon which formal vote is taken.

* * * *

[2633] Q In addition to the meetings of the faculty as a whole of Erna Michael College, are there also meetings of the faculty of individual departments?

A Yes, by subject.

We don't have the formal designation of department.

Q By subject area?

A Yes.

Each area meets, generally, twice a year, but an absolute, mandated once a year, an absolute minimum, by faculty resolution.

During these meetings, they will do a number of things, such as, A, run an evaluation of the current courses, and both, as affects course content and teaching methodology, these meetings are actually run down where an instructor will report to the group on what he's doing with his group, where he's up to at that point in time, where he hopes to go in terms of his course, what are the outside readings which he is requiring. Something about the nature and number of examinations which he is giving.

This is, we go around the table this way and so that everybody has a chance to evaluate and to exchange information as to what's going on in the other courses. [2634] Then they will move into suggestions for new offerings and, over the years, a number of new courses have originated in that Committee.

That is, they would be thought about, kicked around in that Committee, and, from there, they would then go to a whole faculty group, which would then approve or disapprove of this, and then the course would be offered, and there are any number of courses which have gone that route.

Finally, they will also become involved in making up the comprehensive and qualifying examinations for that subject.

When I say, making up, they're not going to sit there and make it up, obviously, but passing out—dividing the assignments amongst themselves, as to who will take what area for preparing this examination.

Since this examination is necessary for a student who wants to get a degree or diploma, it's a fairly important function of the subject area meetings.

Then the call to this Committee, to this subject area meeting, always includes a—the designation, roughly translated, anything which—anything which the—which the faculty member will seek to bring up. And this is also at every faculty meeting called, you know, as an item on the agenda.

[2635] Q Something similar to open business, anything of interest to the faculty?

A Yes. Anything of interest to the faculty.

* * * *

[2636] Q Dean Rabinowitz, in addition to the decisions made in faculty meetings and in subject area meetings, are there also committee meetings at the Erna Michael College in which decisions are made on matters of interest to the faculty?

A Yes.

The Admissions Committee, for example, sets the standards for admissions.

As a matter of fact, the fact that we are the only school today, the only undergraduate school at the [2637] University which administers a written entrance exam, is a direct consequence of a recommendation and resolution, I shoud say, by an Admissions Committee, going back to '68 and '69, or some such year.

The Committee made that proposal, they set up a group which would make up the examination, and I'm left with the job of administering it.

But, it is on the basis of this examination that we will either admit a student—one of the factors, I'm sorry, this is one of the factors relative to the admission or nonadmission of a student, and the placement of a student.

Q What do you mean by placement of a student?
A We have—
Well, some students who do extremely well might be given credit for some courses; for example, a student who does very, very well on the Hebrew language section of the examination, by virtue of his having either a superior high school preparation, or, perhaps, being an Israeli, and is very conversant with the language, will be exempted from, and in some instances, if his score is high enough, be given credit for Hebrew I or II. These are the intermediate courses.
Similarly, a student who shows extraordinary proficiency in Talmud, will be placed in our better track [2638] for Talmud.
It has also happened that a student has been given advanced standing on the basis of a very superior score in the admissions.
We have, as I have said before, too, rejected students on the basis of very poor scores on this admissions.
The Student Faculty Relations Committee is an important, ongoing committee.
Right now, and I mean, you know, literally, within these weeks, it is dealing with some suggestions on grading on attendance, on scheduling, which will affect all faculty members.
Now, they don't make any decisions in that Student Faculty Relations Committee.
They'll discuss something, and then each group will go back to its parent body for approval, as the case may be.
In other words, the faculty will receive the report and, either approve or disapprove.
Students, on the other hand, have a little bit less of an option, but, if a resolution of Student Faculty Relations Committee, is rejected, so to speak, by Student Council, then they will bring it back to the Committee for any kind of further action.
[2639] They don't quite have the option of rejecting things out of hand the way the faculty does.
Q When you say, "the parent body," the parent body, in this case, is the faculty?

A The faculty, for the faculty members, and the Student Council for the student members.

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[2640] Q Dean Rabinowitz, is there currently in existence a University Senate at Yeshiva University?
Is there such a body now functioning and operating as a senate?
A No, there is none that I know of, operating now.
Q In this previous academic year, was there a University Senate at Yeshiva University?
A No, there was not.

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[2645] A There is no—There has not been any process for the selection of department chairmen.
As I've indicated, the three Senior Professors [2646] have been there, in their current positions, before I arrived as Dean, and no other choices have been made or changes made.
Q This would be true of both full time and part time faculty?
A Yes.

• • • •

[2659] Q At Erna Michael College, do you have dissertation and/or thesis committees?
A We don't have dissertation or thesis committees, as such.
We have the option of a thesis open to students, in lieu of taking comprehensive or qualifying examinations, and what is involved is that a student will, if he's interested in a particular topic, in doing research on it, he will seek out a faculty member who is similarly interested, and who will be willing to sponsor him. He submits his request and then, if it is approved, and in the seven or eight requests that we have had, they've all been approved, then he proceeds to do his thesis, under the sponsorship of a single individual.
It's an undergraduate thesis, and the faculty felt, it does not need more than one faculty member.
In a certain sense, of course, it's probably like an honors course, excepting that we want a little bit more than a honors course for it, so we call it a thesis.

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[2664] Q (By Mr. Bodner) Would you, generally, tell us the criteria you use in considering a full time faculty member?

A Well, it's more of a—a process which takes criteria into account.

When we will have need of a—of faculty—of a faculty member, I'll generally approach either the Senior Professor in that area, if there is one, or a number of other faculty people in that, you know, in an area in which there is no Senior Professor, and apprise them that we need—have need of somebody in subject "X," do they know of anybody.

Alternatively, there are letters or requests for positions which come in to me or to any other of the well known members of the faculty, and we do have a folder which lists or carriers these applications or letters, and we might turn to that.

Then, I would ask these people to interview and make a judgment as to what the background of the particular individual is, whether or not he is suitable for the position which is open.

After this initial paper screening, in which I may or may not participate, in the several instances where this has happened, I think this would have been a fifty-fifty—50% of the time I participated and 50%, I [2665] didn't, and where I did participate, I suspect that it was casual.

In other words, the faculty member might have been sitting in my office, and we began the conversation with my request, you know, so that the process began there.

If there is somebody in mind, or if a particular application or letter is—looks good, then I would ask the faculty member to interview the person in question, with or without my participation.

That would, again, depend on, A, my own availability, and schedule that we can set up, or my own knowledge in the field.

Now, there is some, what, about eight subject areas. I have a good knowledge of two, I think, and passing knowledge of two or three others, and, virtually, I have no knowledge in the others, in the other three or four.

Q What factors do you take into account when you discuss a possible appointment?

A Background, educational background, degrees that are earned, that were earned, and how they were earned.

In other words, if there was a thesis, what sort of thesis it was, under whom the man worked, under whom he studied. Teaching experience, where he has taught [2666] previously.

Some references, if we can get them together, check that out, and we, generally, ask for those.

References, both as to his own teaching abilities and also personality.

We try not to get an abrasive personality if we could, we like somebody who can work well with the students.

I—And publications, as reflecting of scholarship in the field.

* * * *

[2672] Q Dean Rabinowitz, you also previously referred to the role of the Senior Professor, the individual who acts similar to a chairman in your school in the hiring process.

Would you compare the relationship of the Senior Professor to the full time faculty and to part time faculty?

A I don't—

Q Perhaps I can explain it.

A I can't think of any differences.

You mean, in the way that a Senior Professor would relate—would there be a difference in the way that a Senior Professor would relate to a full time member or to a part time member?

Q Yes.

A I can't think of any, of any difference.

* * * *

[2676] Q Is there an up or out policy in your school?

Would you—

Hold that question for a second.

Would you explain, Dean Rabinowitz, what up or out policy is, with regard to tenure, if you know?

A Yes.

[2677] It generally means that after a given amount of time, a man either has to be promoted or—on to a

tenure track, or receive tenure, or else leave the University.

There is no such policy at Erna Michael.

On the other hand, there is, if you call that de jur, there is a defactor tenure, in that nobody has ever been asked to leave Erna Michael College, who has served longer than the normal tenure period in other units of the University.

Q Is that true of all faculty?

A Of all of my faculty, yes.

HEARING OFFICER: Did I understand you to say that none of the faculty members at Erna Michael have tenure?

THE WITNESS: Have a formal tenure.

Nobody—

I have not sent any letters of tenure, or there are no letters of tenure been sent during my period as Dean, and I have not come across, in the folders of faculty people, any other notification of tenure.

And there are people on my faculty who have served better than twenty years.

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[2681] Q (By Mr. Bodner) Dean Rabinowitz, I will turn to the subject of managerial—

Dean Rabinowitz, we will now turn to the subject of the managerial supervisory status of faculty.

Would you describe your function as Dean of Erna Michael College?

A I view myself as the chief executive officer of [2682] the school.

Q In what sense?

A Responsible to the President, through the Vice-President for Academic Affairs.

Q Did you, in parparation for these hearings, Dean Rabinowitz, review the minutes and agenda of faculty meetings over the last several years at Erna Michael College?

A Yes, I did.

Q Would you tell us the example of the subject area of one of those meetings, and we'll go through, in detail, its formulation.

A Well, the things that particularly interested me, the reason I turned to the minutes, was the current structure of the school, and I wanted to go back and refresh my memory as to how it really evolved, and—because when I came into the deanship, the school really had a totally different structure.

It was offering different degrees, it had a different time frame, as I've indicated before.

There were twenty hours a week of instruction for part of the school and sixteen for another part of the school, a five day week and a four day week.

It did not have major and minor areas of study.

The courses and their sequences and their outlines [2683] were quite different from what they are today.

I had had an opportunity before I came into the school, because my appointment was announced in February, and I was not going to come into the school until September—

Q Of what year?

A Of 1968.

So, I had an opportunity which few deans have, being on the spot, I had been the Undergraduate Dean of Students, so I was physically present at the center, of trying to find out something about the school before I came into it, and so I talked at great length with many, many students, and I had a student picture, you know, of the school.

When I came to my first faculty meeting, I told them I knew virtually nothing about the school itself from the faculty point of view, and from its academic point of view.

I could repeat to them some comments made by students, and I could also provide them with some degree of administrative expertise, but I invited them to take these comments, investigate them, evaluate them, and then, if they found them to be of substance, to proceed to try to do something about it to make the school more responsive to those facets of student reaction that they thought [2684] were proper and helpful.

The faculty was very enthusiastic, and I was very well received in terms of this proposal.

They immediately set themselves up into different groups.

In particular, an overall Curriculum Committee, which I think I mentioned earlier—

Q Yes, you did.

A (Continuing)—was set up, and they proceeded to take a look at every aspect of the school, and then proceeded to make those changes, which resulted, as I have indicated, in hours and structure.

We now have a major and minor set up in the school. We offer two bachelor's degrees, Bachelor of Arts and a Bachelor of Science.

We have two different kinds of diplomas offered today, from what was offered back in those years, and I was—my real contribution to that whole period of time was simply as a learner, as a student learner, to sit and learn about the school, because I didn't know very much about it, really.

Q Let's take an example, Dean Rabinowitz, in the curriculum area, and follow it through to the decision process.

Could you give us an example of a subject that [2685] was considered by the faculty in the curriculum area?

A Well, take Hebrew language.

Q Would you tell us what—

A Hebrew language, at one time, under the old program, was offered under several different headings for any given year, so a freshman, for example, would be taking three different Hebrew courses, one relating to grammar, one relating to language, one relating to literature.

The faculty took a very close look at this and decided this was breaking up the student's effort into too many little pieces and decided to incorporate all of this into one particular course, set up a sequence of first composition and speech and another intermediate composition and speech course, and then a literature course, without the kind of breakdown that there was before.

The sequence in Jewish History was likewise completely discarded, and a survey course was introduced as a first offering, followed by elective courses and similarly, really, in every single discipline.

Now, the mechanics of that was, or were, I guess, that the subject area people who meet, examine their offerings, make out lines and suggestions for course content in a given course, and a sequence of courses.

This, then, went to the Curriculum Committee, which [2686] integrated the whole thing into the structure.

This process took about two years, and there were numbers of changes made during this period of time, in the course sequences, but what we had today is, very largely, very, very largely, the product of those first two to three years work on the part of the faculty.

Q Did those decisions require your approval?

A I don't know whether they required my approval. They received my enthusiastic approval.

Q Did the faculty make changes in the curriculum of their area, even if you, personally, disagreed with any of those changes?

A Yes, they can.

They have.

A particular sequence in Hebrew comes to mind, in which I wanted a certain—thought that a certain sequence might be helpful, based not on my own knowledge, as it was on student reaction, really, because I'm not an expert in Hebrew language as it should be taught, and the faculty subject area wanted a certain sequence, and they won out, and that's what we have today.

Q Would the decisions of the faculty on this curriculum matter that you've referred to, have a potential effect on the number of students attending Erna Michael College?

[2687] That is, to be clear, would a student likely take this into account in considering whether he wishes to enroll in Erna Michael College or in this particular program of Erna Michael College?

MR. SHECTMAN: Could we ask, rather than the witness state a bald conclusion, whether the witness have any knowledge whether such changes would, in fact, affect student enrollment.

MR. BODNER: The witness indicated he was Dean of Undergraduate Students before becoming Dean of the Students and talked extensively with students, which

gave him a particular insight into student opinion on this type of matter.

MR. SHCETMAN: He pointed out, this process took two or three years since he was Dean, so this would be students two or three years down the road, and whether he knew in—

I'm interested to know, I'd like to know, in fact, if he does, and I want a basis, rather than his conclusion.

Q Dean Rabinowitz, have you spoken to students about their reaction to changes in various programs at Erna Michael College?

A Well, I make a constant effort to keep in touch with students. They're always invited.

[2688] Matter of fact, my door is physically open all of the time.

Q Do you, on the basis of those constant conversations, have reason to believe that students are motivated by the course offerings at Erna Michael College?

A The most certainly are motivated by course offering, and by opportunities to major in a given subject.

Whether or not a particular change might, you know, bring about a student's withdrawal, I don't have no way, really, of knowing, but the overall structure of the school and the overall course sequences, certainly would have an enormous effect, not only upon a student's staying or leaving, but on whether a student will come to the school or not.

Q Would the number of students who choose to enroll in Erna Michael College, have an impact on the number of faculty positions available at Erna Michael College?

A Yes. By all means.

Q Would that have an effect on both full time and part time faculty positions at Erna Michael College?

A In the way we operate, yes.

Q Dean Rabinowitz, would the faculty's determinations as to the structure of Erna Michael College, or the restructuring of Erna Michael College, similarly, have an effect on the number of students and, thereafter, the [2689] number of faculty positions at the College?

MR. SHECTMAN: I'll object to the form of this question, in that the testimony as to restructuring of the College, I'm not sure the College has been restructured.

I'm not sure what the attorney for the University means.

MR. BODNER: Let's take a step back.

Q Dean Rabinowitz, have decisions of the faculty resulted in a restructuring of Erna Michael College, and if so, would you explain?

A I believe that the word, "restructuring," would be a very fair word to be used here.

Whether we take a look at the number of hours required, as I've indicated it went from twenty to sixteen, or we take a look at the possibility of majors and minors, which did not exist before in the school, or we take a look at the fact that Erna Michael, today, offers both a B. S. and a B. A. Degree, which are both bonafide, bachelor's degrees, as opposed to a Bachelor of Religious Education, Bachelor of Hebrew Literature, where were very specialized bachelor's degrees that it offered before.

The fact that it offers an Hebraic Studies Diploma, which it never offered before.

The fact that it has a two year curriculum and, basically, a two year elective curriculum.

[2690] I think all of these changes together would make the word, "restructuring," a pretty fair word to use in this instance.

Do I go back to the question now?

Q Why don't I ask you more specifically, would restructuring such as a change to the B. A., B. S. Degree, rather than more specialized degrees, have a potential effect on the number of students choosing to enroll in Erna Michael College?

A I would certainly hope so.

This—As I've indicated, part of the restructuring effore was designed to serve students better, and I would hope it would attract more students.

Q Would it, then, also affect the number of full time and part time faculty positions, available at Erna Michael College?

A Yes, it would.

Q Would the same be true of the other types of restructuring that you just referred to?

A Yes, in toto.

Q Dean Rabinowitz, has the faculty also made decisions to drop particular courses and replace them with others?

A Yes. Yes.

Q Have these decisions to drop a particular course and replace it with another, occasionally resulted in [2691] the need to affect the status of the particular faculty member?

A Yes. This is true.

And I go back again to what I said before, about that instructor who was a part timer for many years.

He was teaching a course in Nishnah, N-I-S-H-N-A-H, and this, this course was simply dropped from the curriculum, and for him to adapt to another subject area would have entailed a different scheduling arrangement, and so, he left the school.

Q And the course that was restructured, the course that resulted from the restructuring, is that taught by a full time or a part time faculty member?

A I realy don't know.

The restructuring was so, you know, so complete, that it's hard to say that this hour was replaced precisely by this hour.

A I indicated, we took out, instead of having a student taking—from eight to ten different courses, the freshman now simply takes four courses, or five at the very most.

We've changed courses from two hours to three hours to four hours, from four to six, and things of this order, you see.

Q Have there also been decisions of the faculty to [2692] affect the nature of the major, minor or program areas of study of the students at Erna Michael College?

A I'm sorry, I didn't—I don't think I have the question.

Q Let me rephrase it.

Have there been decisions of the faculty with respect to changing the nature of the subject areas available in Erna Michael College, that a student can or must enroll in?

A Subject areas.

I indicated that they went into a major and minor area, you know, subject areas, and worked up sequences for each of these areas.

Q This did not previously exist?

A Majors and minors did not previously exist.

There were subject areas, but there were no requirements or additions, or areas for, you know, to put these together that way, no.

Q Would that change, also, likely have an effect on the students who would come to Erna Michael College?

A Yes, it would.

Q Would it then, also affect the faculty positions available at Erna Michael College?

A Yes, it would.

Q Dean Rabinowitz, when there is a matter of interest [2693] to the faculty, what general procedure do they follow to formulate their position on that matter?

Let's take in the academic area.

A Well, if it's in the area of a man's own discipline, then the most likely area, the most likely direction that he would take would be to bring it up at one of the subject meetings.

Q That is, if its's restricted to a particular subject?

A I'm saying, if it's in his own area and discipline.

Although he could, certainly, with full freedom, really, bring this up to a full faculty meeting, should he so desire.

The faculty then may suggest this go back first to be discussed at a subject area meeting.

If it is not within his area, then there again, as I said before, we're a very informal group, and there is no kind of a position or rank jeolousy in the sense of one man afraid to tred on another's toes.

He might proceed informally to make a suggestion to

his colleague, or he might bring this up at a full faculty meeting and make the suggestion.

Q Would that also be true, if it involved more than one subject area, including his own?

A Yes, it would be true for any suggestions he [2694] might have.

Yes.

Q You indicated before that the faculty will either reach a concensus or move to a vote on matters of interest to them.

Have there been cases when the faculty has reached a clear concensus on a matter of interest to them?

A I'm sure there have.

Q Could you give us any examples where the faculty indicated to you, or you are aware, that they reached a clear concensus on an academic matter, or other matter of interest to them?

A Well, the one that pops into mind first, because we're talking about it so much, is this curriculum area, and the faculty adopted the new format, and the changes and requirements, by a clear concensus there.

I don't believe there was a dissenting vote at the time.

Q Dean Rabinowitz, in your role as Dean of Erna Michael, how would you treat a matter in which—of interest to the faculty, in which the faculty has reached a clear concensus?

Such as in this curriculum area.

A As I indicated, I view myself as an executive officer, really.

[2695] Q What do you mean?

A I would simply carry out the mandate of the faculty, if it were in my province to do so.

Q And have these decisions arrived at by concensus of the faculty, become facts at Erna Michael College?

That is, have they actually been adopted at Erna Michael College?

A Yes, they have, and the Erna Michael College catalog indicates the real fruits of their labors, in terms of curriculum.

* * * *

[2702] Q Let me turn, Dean Robinowitz, to a managerial supervisory authority of members of the Committee on Academic Priorities and Resource Allocation.

Is there currently a committee of that name, functioning at Yeshiva University?

A Yes. There is a committee by that name.

Q Would you describe the membership of that committee?

A Well, the committee came about as a result of a resolution of the Graduate Council, which, last June I think it was, set itself up as a committee of the whole, to try to give more input into the question of academic priorities for the institution, and the allocation of resources of the institution.

At that time, we appointed Dr. Sokolow to be the chairman, and it suggested that the Undergraduate Council might want to join it in this venture.

Dr. Sokolow obtained the consent of Rabbi Graff, who was the Chairman of the Undergraduate Council, and sent out a meeting notice for these combined councils, which were to constitute this committee, for an August meeting.

I learned from a subsequent communication from [2703] Dr. Sokolow, which was sent out to all members of these councils, that not enough members apparently were in town during the summer months, so the initial meeting could not be held in August.

There have been two meetings of this body, one in October and one in November.

There is another one scheduled for tomorrow evening.

Q Have you attended the meetings?

A Yes, I was in attendance at both the October and the November meeting.

Q Are there faculty members on the Committee on Academic Priorities and Resource Allocation?

A Yes, there are.

The faculty members who are delegates, so to speak, to the Undergraduate Council, the faculty members who are delegates to the Graduate Council.

* * * *

[2706] Q Would you tell us what is the scope of the committee's interests?

* * * *

[2713] A The Chairman of the committee has given it a very, very broad basis of operation.

It can run from a review and re-evaluation of the goals and objectives of a given school, of the programs in that school, to a review and re-evaluation of such things as class size, staffing patterns, enrollment patterns, degree requirements, course offerings, admission standards, and these would be in the academic areas.

The committee will also have a broad basis of interest in students and their activities, student services, guidance efforts.

It will also be expected, in hunting around for priorities in the allocation of resources, to think about and evaluate physical facilities and their needs and their priority scale.

Organizational structures.

And then, even turn to methods of funding these things, which would include trying to figure out new [2714] ways of raising funds by philanthropy, or tuition, or any other means by which more funds could be raised.

Q Can you give us an example of what might be meant by the term, academic priorities?

What would be a priority, a decision as to a priority in the academic area?

A Yes.

The committee will be asked to determine priorities for given programs in the sense that the amount of funds available to the University is limited, and given this kind of recommendation power, which the committee has it will be asked to recommend this to the most effective way in which these funds can be used.

Recommending the most effective way would entail setting a priorities scale to say that program "A," at school "X," is more important than program "B," at school "X," or at school "Y," and that, in the competition for funds, program "A" should come first.

Q Would this have an affect on the number of faculty positions available in school "X" as oposed to school "Y?"

A Conceivably, yes.

Yes. I might add that this is the first time that this is being done on a University-wide basis, in this kind of a format. But, —

I've expressed this at the last meeting of this [2715] committee—this kind of evaluation and review did go on before, with various groupings, including faculty groups, chairmen, faculty welfare committees.

There was even a discussion about participated in, with the members of the A. A. U. P Chapter, at the Graduate Center, in which they were interested in how the University goes about some of these functions, and there was a protracted discussion, and their input was invited on each of these occasions.

But, these were individualized efforts, you know, school by school, or center by center.

This effort is one which seeks to unite all of these into one, major thrust.

Q Would you explain what is meant by the term, resource allocation?

A Allocation of available funds, and, I guess, this would also include use of facilities.

If we have a given number of classrooms, and we cannot afford to build more, or rent more classrooms, or laboratories, for that matter, and the decision has to be made, which class or which program or which school gets to use these facilities at a time, at a given time, then, clearly, these—this would have to—this would be determined by the priorities scale, which this committee will recommend.

[2716] Q Would that also have an affect on the faculty of the schools, various schools of Yeshiva University?

A Conceivably, yes.

If you have no physical facilities to meet in, then you can't run the class or the laboratory.

Q You mentioned the committee is given access to various materials.

Would you give us examples of what types of materials the committee is given access to?

A An—

Q In making their determinations.

A At the first meeting, one faculty member asked whether or not the committee would have access to financial data, and the reply was, yes, by all means.

Indeed, at the last meeting, there was a general distribution of the summary of the auditor's report, covering, I think it was three or four years, showing income and expenditures for the University, and the deficits for each year.

Q This distribution was made to the faculty members of the committee, as well?

A This distribution was made to all members present, which included faculty.

Q Could you tell us what subjects were discussed at the first meeting to which you referred?

[2717] A The first meeting was really a kind of a "getting-to-know-you" meeting, in the sense that a good number of the people really had no idea of what the committe was about, and there was a search for models which one might follow, and a general questioning by the members present as to exactly how does one go about this kind of a process.

In the second meeting, there were more concrete steps taken, including a memo, which was distributed, and I don't recall whether it was distributed at that meeting, or with the call for the meeting by the Chairman, which outlined the scope of the committee, as I have sort of narrated it here.

Q You mentioned that there was a search for various models for the committee.

Was any model finally adopted?

A No one model was adopted, but the Chairman did make available to members of the committee reprints of, I think it was the way Princeton's Budget Committee, or, I don't know what they call themselves, Priority Committee, went about its work, and, I think, there were one or two other schools represented in terms of reprints of their published material, so that there would be kind of a model and guide for committee members to follow and see precisely how one attacks it.

[2718] The assertion was made a number of times at both meetings, more so at the second meeting that the first, that if the committee were going to do its work seriously, there would, undoubtedly, be some painful decisions to be made, and my own feeling is, it will take a little while for committee members to get used to this kind of a process, and so, I don't know whether anything will come about, you know, in this meeting, or perhaps even the one after that, but, as the committee members begin to get used to the idea that hard decisions have to be recommended, then we will see, I hope, I hope, very great progress from this committee.

Q Would you compare that committee's authority in matters of academic priorities and resource allocation to that of your own in these matters?

A I would think, not think—

This being a University-wide effort, I hate to say this, probably carry a lot more weight than my own.

When I go to fight for my individual school, then I am very prejudiced, not at all objective, and I want to get whatever I possibly can, which would fill the needs of my school.

When the University-wide group sets out for the entire University, presumably, it has everybody's interest at heart, and it's making a fair and equitable [[2719] allocation of whatever resources are available.

So, that clear indication that their word or recommendation would carry more weight than mine.

* * * *

[2723] Q (By Mr. Bodner) Dean Rabinowitz, the topic that we were up to, was the supervisory role of Chairmen over full time faculty.

Would you describe for us the role of the Senior Professor in the hiring of full time faculty members at your school?

A Well, as I've indicated, I don't view myself as an expert in the eight different subject areas which comprise the curriculum of our school, and I will depend and do depend on senior professors to make recommendations, to investigate and check out vita of prospective

candidates, to interview them, and to meet with them, and then to recommend to me whether or not these people could make a contribution to the educational effort at Erna Michael Collect.

[2724] In that sense, I think that their work in this area is pretty much a determining factor as to whether or not a person gets hired.

Q Can you give us any examples of instances in where the senior professor played a role with regard to the hiring of a particular, full time faculty member?

Within recent years.

A Yes, I can.

Q Would you describe the process?

A Dr. Leaf is a Senior Professor in Hebrew.

We had need of a faculty member in that area, and there were several candidates which he brought to me, whom he brought to me.

It was his recommendation which led to the choice of one of the candidates over another, and, as I can recall, today, I think that in my own mind, I favored the other one for reasons of personality or verve, appearing verve, but we did take the one whom he recommended.

Q Did you take him because he was his recommendation as senior professor?

A I think that's a fair statement.

Q Are you aware of what Dr. Leaf did with regard to the—to determining which full time faculty member should be selected for the position, what process did he go through in determining which applicant was to be [2725] recommended?

A Well, part of the answer would be a guess and part of the answer would be as a result of a discussion that I would have had with him.

I'm aware that he looked through his publications.

I'm aware that he had talked with the man at length.

I would also hope that he checked with other institutions at which he had taught.

I don't really, now, recall whether or not he had told me that he had done so.

I think these were probably the only things that come to mind now as to the process which he probably was involved in with this faculty member.

Q Did you, yourself, recheck any of the sources that you understand Dr. Leaf checked?

That is, did you, prior to the selection of this individual, check his publications yourself?

A I checked the list of publications.

I am not an expert in Hebrew language as it should be taught, and I would really have no basis for determining whether or not a particular publication was indeed, a worthy one or a good one.

But, I depended on him.

Q Him being Dr. Leaf?

[2726] A Dr. Leaf, yes.

Q Have you ever hired a full time faculty member without the consent of the senior professor of the department involved?

A No.

HEARING OFFICER: Excuse me, Dean Rabinowitz, is the professor hired by, or hired on the recommendation of Dr. Leaf, still with the school?

THE WITNESS: Yes, he's still with the school.

HEARING OFFICER: Would you give me his name?

THE WITNESS: Mr. Wollman, W-O-L-L-M-A-N.

HEARING OFFICER: When did the hiring take place?

THE WITNESS: As best as I can recall, about four years ago.

HEARING OFFICER: Thank you.

Q (By Mr. Bodner) Now, Dr. Rabinowitz, what if a situation arose where you had to eliminate a faculty member for budgetary reasons within a department, how would you go about doing that?

What would the role of the senior professor be in that process?

A This is more than a hypothetical question, actually.

It did occur in one instance during my tenure as Dean.

[2727] Our enrollment dropped, and we found ourselves overstaffed in Talmud.

At that time, there was a Chairman of the Talmud Department. He's no longer with us, he had transferred to another unit of the university, or an affiliate of the university.

I discussed the matter with that person, the problem of being overstaffed in Talmud, and asked for his suggestions and recommendations as to how we might go about correcting that.

Together, we arrived at the name of an individual who would be affected, and together we worked out a program to cushion the separation, by changing the man from full time to part time, and with the notification that that year would be his last, and this procedure was followed.

The faculty member in question is no longer with us.

Q Would you describe for us the role that the senior professor played in determining which particular faculty member would be so affected?

A I guess that the name which was settled upon was, basically, done on his recommendation.

I think it would also be fair to state that part of his recommendation was probably motivated by the fact [2728] that this man was one of the new—newer people on the faculty.

Q Are you aware of what process he went through in determining which individual it ought to be?

A Not really.

Q Okay.

HEARING OFFICER: Was the faculty member who was discharged, the lowest in seniority?

THE WITNESS: If he was not the lowest, he was the lowest within a year or so.

In other words, as I recall, there were two people who had arrived either at the same time, or one a year before the other.

I think that the one whom we settled on had arrived a year after—had arrived, I'm sorry, had been serving at the University for one year longer than the other person whom we still have on our faculty.

Q (By Mr. Bodner) So that it was not the least senior?

A It was not actually, in fact, the least senior, but, as I say, very close to it.

Q Dr. Rabinowitz, would you describe for us the role of the senior professor with regard to your evaluation

of the value of each faculty member within a department for purposes of retention, salary, and so forth? [2729] MR. SHECTMAN: Could I have the question read back?

(Whereupon, the requested question was read back by the reporter.)

A The evaluation of a faculty member is a somewhat complex process.

There are probably a number of factors which go into it.

I, myself, have never entered a classroom to observe teaching by a faculty person. However, I have asked several senior professors to do so, two that I can recall of right now.

One did not, to the best of my recollection, and the other one did, and, after his visit to the classroom, we sat down to discuss what he had seen and what his recommendations were.

This was a part of an evaluative process.

A second significant part of an evaluation process really takes place in the subject area meetings, where, as I've indicated, all the faculty members in a given subject area will meet together to discuss what is going on in their own courses.

The senior professor will, almost invariably, take the lead in seeking information and questioning and evaluating the role of the faculty person in the teaching of [2730] the specific course.

From time to time, it has also happened that senior professors will come in to me, and I have repeatedly asked them to do so, to share with me their feelings or feedback, as I call it, on the effectiveness of teaching.

This has been done on a solcited basis, by my request.

This has also been done unsolicited, where a faculty member will come in and say that I have learned the following, or I have heard the following, would you like to pursue this, can we check this out, or what have you learned, or something of this order.

Q What weight do you generally give the comments and recommendations of the senior professor in these matters?

A The term, "weight," is hard to go back and define, or evaluate at this point.

But, as I've indicated, I really rely, to a great deal, on them, because my assumption is that they know more about the subject areas which they head, than I do.

So, if I had to use the word, "weight," in a relative sense, I would say that I give more weight to their evaluation than I would to my own, especially as it concerns curriculum matters.

Q Dean Rabinowitz, could you estimate for us, the [2731] amount of time that a senior professor spends in all the functions we have just discussed, with regard to the hiring process and the reviews of the material prior to the hiring process, with regard to the evaluation process, and with regard to the retention or termination process of full time faculty members?

A I don't think I could really give you a figure for the amount of time.

A lot of it, of course, would depend on whether or not there was a hiring process in motion.

When we are looking for somebody, then it might involve a good number of hours, reading vita, soliciting information, checking references, even going to the library to check out publications and so forth.

No real handle by which I could give you an exact figure for it.

The evaluative process is also an ongoing one, and it's hard to separate this thing into little blocks of time, to say, so much for this and so much for that.

What I could say is that I regard it, and I think the faculty people, themselves, regard it as an integral part of their position, their responsibilities at the University.

* * * *

[2732] Q (By Mr. Bodner) Can you describe it with regard [2733] to Dr. Leaf, for example, during this past academic year?

Can you estimate the approximate number of hours he might have spent—he spent, to your knowledge, in activities of this nature?

Of this nature, being the hiring process, the evaluation process, the retention process.

A During this past year, there were no hiring process in motion.

The visit which I referred to, I think, took place at the beginning of the 73-74 academic year.

To put a figure of time on it would be a guess.

MR. SHECTMAN: I'll object then, if the witness is going to put a guess into the record.

MR. BODNER: I'll withdraw the question, if it can't be determined.

Q (By Mr. Bodner) The next subject area is the role of the Chairman, the supervisory role of the Chairman, with regard to part time faculty.

Dean Rabinowitz, would you describe the role of the senior professor in your school with regard to the evaluation of part time faculty members?

A It corresponds fairly closely to the role which they play in evaluation of full time faculty people.

Q What does it involve with regard to their role, vis-a-vis part time faculty?

[2734] What processes do they engage in, in the evaluation process?

A Again, there would be subject area meetings which would be of prime concern.

Examination, perhaps, of the syllabi, and course outlines which are submitted by the part time people for the courses which they're going to teach.

I do not recall specifically, although it may very well have taken place, a visit by the—by the senior professor to the part time faculty person, unless Mr. Sabban was a part timer at the time that Dr. Leaf visited his classroom.

I don't recall.

Q Do you, yourself, as a matter of general practice, visit the classrooms of the part time faculty members who are teaching in your school?

A No.

I never visited a classroom for observation purposes, either full time or part time.

Q When you feel that observation is necessary, or appropriate, who engages in such observation for you?

A I would ask the senior professor.

Q And have you actually done that in recent years?

A Yes, I have done, as I have indicated.

HEARING OFFICER: You indicated above, you would [2735] ask two professors to observe, and one did and one didn't.

Were they asked to observe the same person?

THE WITNESS: No.

HEARING OFFICER: Two different people?

THE WITNESS: In two different subject areas.

One in Hebrew, the other one in Bible.

Q Where the senior professor evaluated or observed the part time faculty member within his department, did he, subsequently, make a recommendation to you?

MR. SHECTMAN: I object to the question, in that the witness seems to have testified already that there was no evaluation of a part time faculty member.

MR. BODNER: I disagree.

The witness' testimony was to the contrary.

Q Will you clarify, Dean Rabinowitz, has a senior professor evaluated a part time faculty member?

A I've indicated that the senior professor would have taken part in the evaluation of a part timer at the subject area meetings, which I distinctly recall.

I have said that I do not recall, specifically, a visit to a classroom, where a part timer was concerned.

Now, in—at the subject area meetings, certainly there would be no distinction made between part timers and full timers, in terms of evaluation of their work.

HEARING OFFICER: The person observed by the [2736] senior professor you asked to observe, was he a full time faculty member?

THE WITNESS: Actually, there were two.

Ho observed both Mr. Wollman and Mr. Sabban.

What I cannot recall, at this point, is whether Mr. Sabban was a part timer or a full timer at the time of his observation.

Q Dean Rabinowitz, can you estimate the amount of time senior professors spend each academic year, with regard to these functions over part time faculty members?

A No, I really cannot.

Q Okay.

The next subject is the Associate and Assistant Deans.

Dean Rabinowitz,—

These will be very brief inquiries.

Are there any Associate or Assistant Deans in your school at this time?

A No.

Q Have there been Associate or Assistant Deans in recent years?

A No.

* * * *

CROSS EXAMINATION

[2761] Q (By Mr. Shectman) Dean, you indicated, did you not, that you took part in the negotiation and fixing of part time faculty salaries?

MR. BODNER: Can you read that question back?

(Whereupon, the requested question was read back by the reporter.)

A I don't recall if I used the term, negotiation, in the sense of part time salaries.

I think that what I said was that there was a [2762] range of part time salaries in existence at Erna Michael Collect from 1,400 to $2,000.00, for a four hour block per year.

Q When a part time faculty member is hired, how is his salary determined?

A Based on his experience and our need for him, he would be slotted someplace, generally speaking, in this block.

There frankly is somebody, or could be somebody who would even be out of the block. Most usually in the upper range.

But that would be somebody whom I wanted very much, or who fulfills a particular important function.

So that, while this is not in the strictest sense of the word, a scale, I use it much in the same way that a scale would be used.

When a man comes to you, you may have an opening, depending on his credentials, depending on the recommendations which you have from your chairman or senior professors, as the case may be, where you might want to slot this man, start him at the first step, the third step, or where ever else it might be.

Q Who will slot the man?

A This, as I say, will depend.

Q Who will slot the man?

[2763] A This will depend on the kind of recommendation that I get from the senior professor, and then I will do the actual slotting.

Q Did you, in any way, take part in fixing the salaries of Rabbi Derovan?

A Yes, I did.

Q And did you slot him in at a full—at a part time salary?

A Yes, I did.

Q And, likewise, with Dr. Cohen?

A No, I did not.

Q With Rabbi Serels?

A Did I participate in slotting Rabbi Serels?

I think that what happened with Rabbi Serels was that he was approached by the Sephardic Studies Program, in the larger sense, and offered an opportunity to work in that program.

A part of that was projected to include giving a course at Erna Michael College in his particular area, relating to the Sephardic Studies Program, and his salary, overall salary, at the Sephardic Studies Program, includes that responsibility.

Q Did you make any recommendation as to the respective salary that might be attributed to his teaching at Erna Michael?

[2764] A No, I did not.

Q With regard to Dr. Abraham Stern, did you slot him in a part time faculty salary?

A Yes.

* * * *

[2775] Q Do those members have your approval for their employment outside the University?

A Yes, they do.

Q It is required that they have your approval?

A This is the understanding, but this is—this has been for some time now.

Q Is it not, in fact, the case that such approval is required by the faculty handbook for all full time faculty?

A Yes, it is.

* * * *

[2777] Q Have members of your full time faculty received any salary increases this academic year?

A Yes, they did.

Q When were those effective?

A For this academic year.

Q When were they determined?

A They were determined as a result of the joint discussions which the University held with the Stern College and Yeshiva College Welfare Committees.

Q Did those committees establish salary schedules?

A I guess the term, schedule, might be quarreled a little bit with, but they did establish a pattern for the next two years.

Q And that pattern will effectuate automatic increases for full time faculty for the next academic year?

A That pattern has brought about increases.

Q It will also, for the next academic year?

A I hope so, yes.

I believe so.

Q Has the salary rates of your full time faculty historically been related to those of the Yeshiva College [2778] and Stern College faculty?

A Yes, they have been related to them. Yes.

Q Have they historically grown out of, as you've said, discussions between those Welfare Committees and members of the administration?

A By and large, I would say, yes.

Now, there may have been an exception here or there, but, as a pattern, this is true.

Q As a pattern, have those discussions in any way determined the points at which you slot in part time faculty members for salaries?

A Not directly, but I would say that, as the salary scales went up for the full time people, I would have a larger inclination to make every attempt to slot somebody at a higher slot.

Q That would be at your discretion, would it not?

A That would be at my discretion, based on recommendations and all the other factors that I mentioned before.

Q Did you have discretion in the increases that were granted to your full time faculty this year?

A Discretion would imply a merit system.

Q I'll talk about—

Let me ask the question this way, then.

I'll withdraw the question.

[2779] Did you have discretion as to determining the minimum salary rates for your full time faculty this year?

A Not below the slot which is extent.

In other words, I could not hire a faculty member at less than, I think the $7,000.00, which is the lowest slot.

No member of my faculty, may I hasten to add, for the record, is making only $7,000.00.

Q I'm not talking about hiring now, I'm talking about full time faculty who have continued in your employment.

Have you had any discretion in fixing their salary rates?

A I say again, to have discretion would imply a merit-giving one more or less, depending on his work. That system is not operative at Erna Michael.

Q Are your senior faculty members paid pursuant to the salary rates or schedules we've been discussing?

A Would you define senior?

Do you mean senior professors?

Q Yes.

A Yes, they are.

Q Do they reecive any kind of increment, whatsoever, for serving in the position of a senior professor?

[2780] A No, they do not.

Q Do they receive any equivilency status in lieu of contact hours for serving in that capacity?

A No, they do not.

Q Is your salary determined according to the salary schedule and discussions between the Stern and Yeshiva College Welfare Committees and administration?

A I would say, almost indirectly, yes.

Because the pattern has been in recent years, when there have been significant changes in a salary schedule for faculty, without my asking for it, and to my knowledge, without any other administrator asking for it, there has been a corresponding, some increase for administrators' salaries.

That's indirect.

Q You are a full professor, are you not?

A I'm an Associate Professor.

Q An Associate Professor.

How many years have you been with the University?

A Since 1957 on a full time basis.

Q According to the salary schedule, would an Associate Professor, with your degree of seniority, have a set rate for a salary at Erna Michael?

A Yes. he would.

Q Are you paid at that salary rate?

[2781] A No, I'm not.

Q You, in fact, receive some increment, do you not, for serving as a Dean?

A Yes, I do, for no summers and sixty hour weeks.

* * * *

[2798] Q (By Mr. Shectman) Dean Rabinowitz, you referred to your faculty, I believe, as, a quote "informal group," did you not?

A Yes.

Q I assume that's likewise true for your sub-faculty groups in the various subject areas, is it not, they're informal groups, as well?

A You mean, are the subject area meetings informal?

Q All right, yes.

Subject area—

A Yes.

Q (Continuing)—meetings, are they informal?
[2799] A Yes.
Q And who will normally attend the subject area meetings?
A All people who are engaged in the teaching of the particular subject which is meeting.
Q And what normal or what subjects are likely to arise at those meetings?
A Well, there is really a bit of a pattern to the meetings.
They will begin with an instructor detailing what is currently occurring in his class, what material is being covered, where they're up to, where they expect to be at the end of the semester.
Something about the nature and the number of the examination which he is giving, the amount of outside reading which he requires in his course.
After this goes around for all instructors,—
Q That includes professors?
A That includes everybody, professors, instructors, part timers and full timers.
They will then turn to the question of suggestions for new courses, if they feel there's a need for them.
As a final item on an adgenda would be the question of the comprehensive and qualifying examinations.
I say, this is a normal pattern. But in reality, [2800] any subject which can affect the teaching or the course sequences or whatever for that subject area, can be brought up.
Q For instance, is the matter as the calendar, the tri-mester, semester, that could be brought up in a subject area meeting?
A That could, but it would more properly be handled at a full faculty meeting.
Because that affects all subject areas.
Q Would these subject area meetings deal with some evaluation of the programs within that subject area, as they're being taught, or maintained and developed?
A By programs, you mean, courses?

Q Yes.
A Yes, by all means.
That is the core of the meeting.

* * * *

[2801] Q Do you have any knowledge of whether a subject area meeting has ever been concerned with considerations or recommendations for the hiring of new personnel?
A When it will be the consensus of a subject area meeting that a new offering ought to be included in the Erna Michael program, and it will be found that no one currently on the faculty has either the time or the background to teach that new offering, and agreement might be reached that it would be a wise thing to hire somebody.
But, to my recollection, this has not included a specific person, ever.
Q You testified that a senior professor will take part in this?
A Yes.
Q Do you have any knowledge of whether a senior professor has ever consulted with other members of his subject area as to hiring?
A I don't have any knowledge of it.
I think it would be a fair assumption that there is a good amount of conversation between faculty people.
Q Likewise, would the termination of a faculty member be subject to that conversation?
A As I've indicated, terminations have not occurred with any kind of regularity or frequency that would [2802] likely arise as a subject of conversation between faculty people.
There has been the termination of only one full time member in the years that I've been there.
Q That's been how many years?
A 1968.
Q And how many people have been hired in the last three academic years, approximately?
A Full time people?
Q Full time people.
A Two, I think.

Q How many part time?
A Likewise, two.
Q Do your senior profesors take part in subject area meetings?
A Yes, they do.
Q Do those meetings act by vote or concensus?
A Most often by concensus.
Q Do you have any knowledge of any time a senior professor overruled or acted in any way against the concensus of the faculty within the subject area?
A My best recollection is that there have been—there has always been agreement between them, and I don't really recall a meeting adopting any posture which would have received really a strong objection form any member [2803] of the group.
Q As Dean of Erna Michael College, do you formulate budget for each academic year?
A For the past three years, it has not really been a question of formulating a budget, because we have been on a, what's called a zero growth budget, so the figure which was available to me, to the school, in the prior year, you know, was, theoretically at least, available for the next year.
Prior to that, we made extensive efforts to cut the budget, and, as a member of the Budget Committee, I was wearing two hats, and had a very difficult time.
Q In this period of zero growth, where you had the same amount of money available to you each year, do you have discretion as to the allocation of those funds?
A Not really very much, because the faculty salaries are there, and there is a very, very little else in the Erna Michael budget, aside from faculty salaries.
Erna Michael has a part time secretary, and myself as the only administrative officer.
There is a very small amount of funds for O. T. P. S. for other than personnel services.
Q And you allocate those funds?
A As I said, they have been, in a sense, fixed.
Faculty salaries are set by the process.
[2804] Q I'm talking about the O. T. P. S.
A I even hate to use the term allocate for that kind of money.

Q You're on the University Budget Committee?
A Yes, I am.
Q What is the function of that committee?
A That committee was asked to review all of the budgets of the University, with a view towards decreasing University overall deficit.
Q How long has that Budget Committee been in existence?
A I have been involved for, I think, it's only four years, but it seems like twelve.
Q Was the committee in existence before your involvement?
A Yes, it was.
I was given a replacement task or asked to replace Vice-President Levin, who left, I think, in '70, '71, or thereabouts, I'm a little bit hazy about the exact date, but, at the time of his leaving, I was asked to replace him.
Q In that committee, its efforts to reduce the budget, what specific functions has it performed?
A It has met with all kinds of groups around the University.
[2805] Its basic, direct liaison is with the Dean of the school, but on request of the Dean, or on the request of other parties at the University, with the approval of, or at least the non-objection by the Dean, we have met with diverse groups, including Welfare Committees, including a chapter of the American Association for University Professors, including student groups.
We have scheduled an open meeting for all members of the University family.

* * * *

[2806] Q (By Mr. Shectman) In the last three academic years, Dean Rabinowitz, have you, as a member of the—of the University Budget Committee, met with welfare committees of various of the schools of the University?

* * * *

[2808] A Yes, we have met with welfare committees.
Q Of which schools?

A The Joint Welfare Committees of Yeshiva College and Stern College, the Wurtzweiller School, I believe it was the Welfare Committee of Ferkauf that we met with.

We also had met with department chairmen of Ferkauf, that's why I'm a little bit vague.

We met with a group from Belfor, which was either department chairmen or welfare committee. I don't remember which.

Q In the course of those meetings, did you take part or did the committee take part in fixing or coming to terms on salary schedules or salary rates for the faculties of the respective schools?

MR. KRAMER: Can I hear that question read back, please?

[2809] (Whereupon, the requested question was read back by the reporter.)

A In all of the areas, there were discussions about them.

For many of them, there was a question—we did come to an agreement as to recommendations to take to the President.

Q As a member of the University Budget Committee, are you generally aware of the settlements arrived at by the respective welfare committees of each of the schools that have welfare committees?

A At the time that they're made, I generally would be aware of settlements that are made.

Q Do you know of any school of Yeshiva University that pays any separate or sepcial increment to departmental chairmen or senior professors?

A When we talk at these budget meetings, it's the overall budget of a school, which is under discussion.

The budget committee has never really told the school as to how to spend its funds.

I have really no idea of the individual salaries of any member of any facility, other than my own.

What I do have in mind is a line which says the faculty salaries in toto.

* * * *

[2817] Q Is that applicable at Erna Michael College?

Is there a specific review at the end of seven years or before, to determine formal tenure status?

A No, there is no specific review at a seven year period.

* * * *

[2821] Q You previously testified that you asked the senior professors for their evaluation with regard to faculty members.

When you did so, did you indicate to them that in their evaluation, they were required to obtain the views of the faculty members in their department?

A No. I made no such request or indication of [2822] them.

I simply left it to them.

* * * *

[2824] Q (By Mr. Bodner) Do you have a basis —Do you know, Dean Rabinowitz, whether the senior professors' judgments were based on their own evaluation or a consensus of the faculty of their school?

A Well, in several instances, by no means all, but in several instances, what I had asked for an evaluation from a senior professor, I received an on the spot, almost immediate evaluation from him.

Now, whether or not this was a part of an ongoing process which he had been following in response to my request that these evaluations take place, and, in that process he had consulted others, I do not know.

But for those instances, at least where the evaluation was forthcoming, in our—following my request in our initial—in our conversation, I was led to believe that they were the evaluations of the senior professor, himself.

Q When you requested, as you previously testified a senior professor to attend the classes of a faculty member, did you require or indicate that you simultaneously [2825] sought the same from other faculty members in his department, that is, was it his sole presence in the classroom, or did you ask that a group of faculty members from his department go into the class?

A I never made this request of anyone else but a senior professor.

Q Do you know whether the senior profesor visited the class on his own, or with a group of faculty members?

A From his subsequent evaluation. I best recall he visited on his own.

Aside from the fact that it might be awkward to come in with a group of people.

* * * *

RECROSS EXAMINATION

[2831] Q (By Mr. Shectman) Dean Rabinowitz, are you on the Executive Council?

A Yes.

Q Are you on the Council of Undergraduate Schools?

A Yes.

Q Under what document are those councils formed and established?

A The Executive Council is an outgrowth of an idea which was not acceptable to faculty back a number of years back, and I'm not sure that there is a document which established it, other than a presidential request.

* * * *

[2847] RABBI MORRIS J. BESDIN

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Boder) Rabbi Besdin, would you tell us your position at Yeshiva University?

A Director of the James Striar School. General Jewish Studies.

Q Would you tell us the nature of the James Striar School?

A The James Striar School is intended for students who do not have sufficient background in Jewish Studies to qualify for the two other schools which are on a [2848] higher level of Jewish Studies; namely, E. M. C. and Y. P.

Q Would you tell us what Y. P. stands for?

A Y. P. stands for Yeshiva Program, and it is, in some respects, the more advanced school, certainly in the area of Talmudic study.

MR. SHECTMAN: Can the witness tell us what E. M. C. is?

THE WITNESS: E. M. C. is a school that was, I think, amply described by Rabbi Rabinowitz, and it serves mostly to students who have come through the Yeshiva High Schools and whose interests goes beyond mere Talmudic study.

Q Is E. M. C. intended to refer to Erna Michael College?

A Erna Michael College, yes.

Q Rabbi Besdin, when was the James Striar School founded, if you know?

A The James Striar School began in 1956, under another name.

It was then known as the Jewish Studies Program. And it was organized, not as a school, but more as a department within the College, to serve students with the background that I described; namely, students who couldn't qualify for the other two schools.

[2849] It continued under that name until 1965.

In 1965, the name was changed to the James Striar School of General Jewish Studies.

It was founded in '56. With the opening class.

Q How long have you been the Director of the James Striar School?

A Since fall, 1958.

May I correct this?

I have been, in a sense, the Director of the James Striar School since fall, 1958, but, originally, my title was not that of Director, that of Chairman of the Faculty.

I don't recall the exact year when the title of Director was given me.

Q Do you hold a faculty rank at Yeshiva University, Rabbi Desdin?

A No.

Q Have you ever taught a course in any unit at Yeshiva University?

A I have been teaching from the very first year that I came to J. S. S., and am presently teaching ten hours per week.

Q At what school?

A At the James Striar School.

Q Have you taught at any other schools of the * * *

[2850] A I taught in E. M. C. as it was then known.

It was first known as the Teacher's Institute, before it assumed the name E. M. C., and I am—I taught there then.

And I am presently teaching one course in the Stern College for Women.

Q So as not to confuse the record, I would note that there is currently in existence a Teacher's Institute for Women?

A Yes.

Q At the present time?

A I also taught there one year.

Q What was your position at Yeshiva University, prior to the time you assumed the role of Chairman of the Faculty, as you said it was originally called, or Director?

A For the first two years of what was then called the Jewish Studies Program, I taught, I think, one course in Bible each year.

I was then the Rabbi of a congregation in Long Island, and they had a stipulation with the congregation that I would take one day off a week.

A Rabbi works on Saturday, is occupied on Sunday, and the day that I took off during the week, I devoted to teaching. Always.

* * * *

[2852] Q Rabbi Besdin, in preparation for this hearing, did you, at my request, prepare a list of all faculty teaching at the James Striar School?

A Yes, I did.

Q That list would be faculty teaching at the James Striar School in the fall semester of 1974-75?

A Right. That's correct.

Q I show you a copy of this document.

Is that the list that you prepared?

A Yes, I did.

It is the list that I prepared.

[2853] MR. BODNER: I would ask that this be marked for identification as Employer's Exhibit 118.

(Employer's Exhibit 118 was received and marked for identification, of this date.)

Q (By Mr. Bodner) Rabbi Besdin, would you briefly explain to us what the first column represents, starting with the word, "Bible?"

A Well, this represents a study area at the school, namely, Bible.

Q I see.

Are the other designations under that, also, study areas at your school?

A That is correct.

Q Would you tell us what you mean by study areas?

A Well, the school begins on the elementary level, and deals with basic subject matter, and the subject matter which is taught in the school is divided into five areas.

One area is Bible, another area is History, another is Hebrew, Hebrew language, another area defined as Judaic Studies, and, lastly, Talmudic Literature.

Bible is one of the five areas of the curriculum of the school.

Q I take it that these are somewhat comparable to [2854] what would nore formally be called departments in other schools?

A In a sense, yes.

* * * *

[2855] Q And, in that column, I notice the designation, Chairman, next to the name of professors in the department of Bible and Talmudic Literature?

A Right.

Q Are these the only two departments that have chairmen?

A These are the only two departments that have chairmen, Bible and Talmudic Literature.

* * * *

[2875] MR. BODNER: I would ask this be marked for identification as Employer's Exhibit 120.

(Employer's Exhibit 120, was received and marked for identification, of this date.)

Q (By Mr. Bodner) Rabbi Besdin, would you tell us how you have indicated on this Exhibit the names of faculty who have part time status in the James Striar School, in the current academic year?

A You mean in Exhibit 120?

Q In Exhibit 120.

A There's an asterisk next to the name of Rabbi Riskin.

Now, Rabbi Riskin was appointed to this committee [2876] when he was a full time member, and still retains membership in this committee.

Q You say, still retains.

That is, even in this current academic year, when his status is as a part time faculty?

A Yes.

Q Are there any other committees of the James Striar School, other than those listed on this Exhibit, in current academic year?

A No, sir.

Q In past academic years, within the last three academic years, were there any other committees of the James Striar School, other than those designated on this Exhibit?

A No, sir.

Q Would you briefly describe for us the role of the committee designated as Student Faculty?

A The Student Faculty Committee consists of six members, three students and three faculty members.

The James Striar School Student Organization selects the three student members, and recommends to the administration, the members of the faculty whom they would like to have on this committee, and, in the past, those faculty members who were recommended by the students were approved by the administration.

[2877] Q What does the Student Faculty Committee, essentially concern itself with?

A As the catalog states, it is involved in the plans and issues and problems and criticisms in regards to education and administrative aspects of the School, and makes appropriate recommendation.

It covers the entire operation of the School.

Q When you refer to the catalog, that is the catalog—

A On Page 21, I think.

Q In evidence as Part 22-A of Board Exhibit 2.

Rabbi Besdin, the next committee is designated, Committee on Promotions.

Would you tell us what this committee is concerned with?

A This committee is concerned with the possibility of recommending members of the staff who have the status of instructor, to be promoted to the rank of assistant professor.

We have no higher rank.

Q Has the committee been active in this current academic year?

A No.

* * * *

[2879] Q The last committee designated on this Exhibit for identification is designated, Evaluation of Hebrew Instruction.

Would you tell us what the function of that committee is?

A The function of this committee is to evaluate the effectiveness of the instruction in Hebrew language at the James Striar School.

Frankly, we've been having good number of difficulties with the courses that aim to give the students a proficiency in the Hebrew language, and we have been changing texts and we've been reordering the curriculum, and this committee has been working on this educational problem at the J. S. S.

* * * *

[2880] Q (By Mr. Bodner) Rabbi Besdin, turning to the subject of part time faculty, in terms of their governance functions, do the faculty members of the James

Striar School meet as a body to discuss and make decisions on matters of interest to the faculty?

A Yes, they do.

Q In what form do they hold those meetings?

A Meetings are held at the conclusion of each semester, and infrequently, at special meet—special meetings are called for special purposes.

But there are at least two faculty meetings held each year, and part time members are invited to these meetings, as well as full time members, and they attend and participate in discussions, and where ever decisions are made by vote, they vote equally, with the full time members.

[2881] Q Are there written by-laws governing such meetings?

A No.

Q Could you give us some examples of the types of matters under discussion at such meetings?

A Well, almost everything relating to the school comes under discussion at these meetings.

Matters that are suggested by the Student Faculty Committee are brought to the facutly meetings.

Matters relating to courses, to curriculum, matters relating to regulations, administrative regulations, absences, testing.

And, very often, matters relating to methods of teaching.

I can recall a number of meetings where the methods of teaching Bible, for instance, teaching Talmud, or teaching Hebrew, were discussed at great length, and, very frequently, almost always, I should say, members who were not in the department, so to speak, or in the study area that was being discussed, participated equally with members in the department, and decisions were reached, and decisions were made that were effectuated by the administration, and the governing—the student faculty—rather, the faculty meetings are, in a sense, in a great sense, decisive as to the direction of the school.

* * * *

[2888] Q (By Mr. Bodner) Rabbi Besdin, are there any instances indicated in the minutes of this meeting,

in [2889] which a decision was made by the faculty on the matter of interest to them that was contrary to your personal viewpoint?

A Yes, there is.

Q Would you describe that for us?

A Well, we have a full guidance program for our students, who had more problems than students of the other Jewish Schools, in terms of adjustment to the school, to the environment of the school, to the standards of the school, because the vast majority of them did not attend the day school, and for them, adjusting to the Yeshiva environment sometimes constitutes difficulty or a problem.

So, we have this guidance program, and for years it functioned in the following manner.

An instructor teaching a particular class would be assigned to do guidance in that class. He would be teaching—He would be paid for two hours of guidance, and he would do the guidance in his office at the school, and he would call, or prearrange with the student to meet him in conference for guidance at a particular hour.

Now, normally, a student does not have any free hours in J. S. S. during the days of instruction, Monday, Tuesday, Wednesday and Thursday, because every student is required to take sixteen periods of Jewish studies, [2890] four periods each day.

The instructor would then call the student, or prearrange with the student, if the conference was prearranged, the student would leave whatever class he was attending, and would meet with the instructor for half hour or longer, as long as was necessary.

Now, this—this system of guidance was maintained for a number of years, and then some of the senior students began to object to it. They didn't feel right about being called to guidance. They preferred to initiate a request for guidance, rather than to be called.

The instructor would call each student in order, sometimes, alphebetically, and through the student guidance—Student Faculty Committee, a recommendation was made that this practice be limited to the freshman class only.

Those who require the most guidance as described.

This was taken up at this meeting, and it was—there was a good deal of discussion and some argument.

My own feelings, as stated in these minutes, were that it would be best to maintain the old system, where every student would meet with his guidance instructor at least once a semester, would be called out of class for that purpose.

However, some members of the staff supported my [2891] position, some members did not.

The decision was taken, a vote was taken on this, and the—I was—my view was overruled, and, as I remember correctly, basically because it was the recommendation of the Student Faculty Committee.

It was a direct, specific recommendation to the faculty. So, the faculty decided to follow that recommendation.

Q When you say, your view was overruled, it was overruled by the faculty?

A Yes, at the meeting.

* * * *

[2895] Q Rabbi Besdin, would you describe the role of your faculty with respect to determination of admissions requirements, degree requirements, curriculum, at your school?

A The faculty is involved in great—a great deal in curriculum.

[2896] Because curriculum matters are taken up regularly at all faculty meetings. The—

May I?

Q Yes.

A The matter of admission was dealt with several years ago at one of our meetings, and I think it is mentioned in the 1973 meeting we dealt with shortly, the problem came up with regard to qualification for admissions Office at Yeshiva and by me, personally, and the—

However, I will state this. That admission and policies of admission are, have been discussed at various meetings of the faculty, and recommendations were made by the faculty, that were subsequently implemented by me.

I handle admissions directly.

Q Who would you consider the decision making body with regard to such academic matters as we have been discussing?

A I would say, the faculty and myself.

We have a very informal, intimate faculty.

Most of the full time faculty are, some of them are classmates of mine, and some of them I have known for many, many years, and most of the—most of the members of the faculty were selected by me, and most [2897] of the time, we are in agreement on basic matters, relating to curriculum and the method of instruction and so on.

So, at most of our meetings, decisions and recommendations are made by concensus.

Occasionally, there will be discussion and disagreement.

Mostly, by concensus.

Q Consensus of the faculty?

A Consensus of the faculty and myself.

I have had very—I don't recall any—I don't recall any occasion where I overruled a direct recommendation of the faculty.

The exact—At this coming meeting, in about ten days, I'm going to take up the matter of guidance again. But I wouldn't change it without the approval of the faculty, because I'm unhappy with it, it isn't working properly.

* * * *

[2923] Q Rabbi Besdin, turning to the managerial or supervisory role of the faculty, would you describe your role or function as Director of the James Striar School?

A Well, I direct the operation of the school, on a daily basis.

I am responsible, together with the faculty, for curriculum, regulations that relate to the school, attendance, grading, testing.

I'm the executive arm, so to speak, in one sense I'm the executive arm of the faculty.

However, I administrate the school myself.

I seek advice frequently of faculty members, but that responsibility I assume myself, direction of the school.

Q When you say you're the executive arm of the faculty, how does the faculty arrive at its determinations on various issues?

A Through its meetings, regular faculty meetings.

* * * *

[2924] Q Have you, Rabbi Besdin, ever overridden the concensus of the faculty on a matter of interest to them?

* * * *

A I cannot recall overriding a concensus of the [2925] faculty.

Q To your knowledge, has a concensus of the faculty on any academic matter ever been overridden by any other administrator at Yeshiva University?

A Not when it related entirely to J. S. S.

We had instances where a recommendation would be made that more credits be given, or P. & F., that kind of recommendation, which involved the Registrar's office and sometimes involved the Dean of the college.

In such instances, the Registrar would say, we can't do this, we shouldn't do this, or the Dean would say, since their credit is transferred to the college, on—from the James Striar School, the Dean would have a say in such matters, where it related to the college or the Registrar's office.

Q Turning to the subject of the role of chairmen, vis-a-vis full time faculty, would you describe the role played by the chairmen in the selection of full time faculty at the James Striar School?

A You have reference to the two chairmen?

Q Yes.

A The Chairman of the Bible, and—Chairman in Bible and Chairman in Talmud?

Q Yes.

A Their status, in terms of engaging new faculty, or [2926] their contribution, would be in a consultative capacity.

I would—I have, in the past, consulted Rabbi Oratz, who's been teaching Bible, I think, as long as I've been with the James Striar School, and—in matters pertaining

to the—to engaging an instructor in Bible, and I have alwyas consulted Rabbi Siff in matters relating to Talmud, including such matters relating to the engaging of another instructor.

Q Have you ever hired a full time faculty member in a department in which there is a chairman without consulting the Chairman?

A I don't think so.

Q When you asked for the views of the Chairman, did you request or imply that he was required to base his views on his consultation with other faculty of his department?

A No, sir.

That does not mean he didn't do so.

I did not direct him to do so.

Q Would you tell us the procedure involved in a department where there is a chairman, when a faculty member has to be terminated for budgetary reasons?

A Well, this year, for the first time, there was—there is a situation where one of our full time members is under severe criticism by the students, and this, of [2927] course, has been going on for more than a year, didn't begin this year, and this, of course, constitutes a problem for the administration.

The students come to me.

The first thing I did was consult with, to the Bible Department. I consulted with Rabbi Oratz, and discussed the situation with him, asked for his advice, followed his advice in this matter.

I met with the instructor, I asked—I asked him to meet with the instructor, discuss the problem that I noted to him, that he had in his class.

I think he met with the instructor, I wasn't there.

I met with the instructor.

We're working on it. Still pending.

This is how the school operated in this particular instance.

Q With regard to evaluation of a faculty member's ability as a teacher, what weight do you give to the views of the Chairman of the department, where there is a chairman involved?

A It's hard to answer this question, because chairmen do not visit classes.

I do not visit classes, except for inquiring about attendance or the mechanics or something that requires immediate attention.

[2928] The feedback from the students comes from the Student Faculty Committee, sometimes by petition of a class, and I do not think the Chairman would have information that wasn't available to me, and others on the Student Faculty Committee, and would not be more qualified than myself or others to evaluate the effectiveness of an instructor.

Q Turning to the subject of the Chairman's role, vis-a-vis part time faculty, would you describe the role of the Chairman with regard to the hiring of a part time faculty member?

A Again, consultative.

I would consult with the Chairman, and say, I'm considering hiring so and so, and he would say, well, what is his background, where has he taught, how does he impress you. You interviewed him, how does he impress you.

He might, sometimes, suggest someone else, and we would discuss that.

The appointment of the part time member would, generally, be made, in Bible and Talmud, I'm speaking of these two areas, which are the two major areas, constitute perhaps 80% of the instruction in the school, these two major areas, most appointments are made by concensus.

[2929] Q The concensus being between—

A Between the—

Not most, I would correct that, and say, in the past, all appointments have been made by agreement between us.

MR. SHECTMAN: Who's us?

THE WITNESS: The Chairman and myself.

Q Have there been occasions in the hiring process, where you have asked the Chairman to review the background of an applicant for employment, in terms of his places of work?

A I—I have never asked a Chairman to reseach the background of a candidate, but I do research the background of the candidate before offering him any position, and I would discuss the information that I had with him.

But, I don't recall where I asked a Chairman, look into his background, inquire about his qualifications.

Q You discuss these matters with the Chairman?

A In a consultative manner.

Q With respect to an evaluation of the part time faculty member, is the Chairman's role, would you compare the Chairman's role with regard to part time faculty, to that of full time faculty?

A I think so, yes.

[2930] Q When you say, yes—

A Yes, I mean, it would be the same—

Q Generally, the same?

A It would be generally the same, which is not much.

Q Rabbi Besdin, could you estimate the amount of time that chairmen spend in the hiring evaluation proces with respect to part time faculty members?

A Well, as much time as it would take for me to consult with the Chairman.

It could be a half hour, an hour.

Q In each case, are you saying?

A in each case.

Q With respect to the other functions of the Chairman in the evaluation process, could you estimate the amount of time that would require?

A Again, it would be in consultation with me, and would vary.

I—As I did in this instance, where we have this, we still have, to some extent, this problem, I talked to Rabbi Oratz at great length.

Great length is a half-hour, three-quarters of an hour. That's consulting.

Q Rabbi Besdin, do you have any associate or assistant [2931] deans in your school?

A No.

Q Have you had any in recent years?

A No.

• • • •

[2934] CROSS EXAMINATION

Q How are the full time faculty salary rates set for the full time faculty at James Striar School?

A I haven't engaged anyone full time in a number of years.

* * * *

[2935] Q And do you have any knowledge of whether the college faculty, the Stern College and Yeshiva faculty, [2936] did negotiate and settle salary increases?

A I think there was.

I'm not sure, but every time the college faculty negotiates an increase, the James Striar faculty gets an increase, perhaps not of the same size and amount, but some increase is given.

Q You said the James Striar faculty ges some increase.

Is that an increase to the full time faculty or to the part time faculty?

A In recent years, it has been, such increases, as are negotiated or are—as are given to James Striar faculty, indirectly by granting it to the college faculties, such increases have'nt been limited to the full time.

Q Have or have not?

A Have been given to full time only.

They relate to full time only.

Q Did they receive an increase this year?

A Yes.

* * * *

[2942] Q When was the Student Faculty Committee formed?

A I'm not absolutely certain, but it's more than three years.

I think, four years ago.

Q Have Rabbi—

A Maybe earlier than that.

It was formed, I think, during the period when we had a little turmoil among the student body, and there was a demand for a vehicle by which a student body could assert its thinking.

Q Now, were Rabbis Fulda, Siff and Blech the original members of that Committee?

A Blech is a relatively new member.

[2943] I think the only member of the initial Committee, to the best of my recollection, who's still serving on this Committee, is Rabbi Fulda.

Q And the Committee on Promotions was formed at what time?

A Long time ago.

Four or five years ago. Six years ago.

Q Has it met in the last—Has—

Was it active in the last academic year?

A It was active to the extent of meeting with me, and discussing the possibility of promoting another member of the faculty, not one of the Committee, and I remember distinctly it was Rabbi Riskin who met with me, Rabbi Oratz and Rabbi Fulda, and I said, if you want to make a recommendation, promotions are made by the President, at my recommendation. I will make the promotion to the President on your recommendation, but I want it in writing, and they proceeded to meet and present it to me in writing.

They did not. So the matter is still pending in regard to the faculty member.

Q You indicated that this Committee has not been active yet this academic year?

A This academic year, since September, they have again spoken to me, once, I think, about promoting this [2944] particular member. I told them this time what I told them at the end of last year, academic year, that they should have a meeting and do it formally, because I present the recommendation to Dr. Belkin, the President formally.

Q So that Departmental Chairmen would not be—

Strike that, withdrawn.

Does the Committee on Promotions require membership from any departmental chairman?

A No.

They were appointed several years ago at the faculty meeting.

* * * *

[2946] Q You indicated with regard to the admissions of students, that they were handled primarily by Yeshiva College officials, and yourself?

A Yes.

Q Can you describe, more particularly, your role?

A I'll explain that.

A student who enters James Striar School, or any of the other religious schools or Yeshiva College, enter two schools, two autonomous schools. He cannot enter my school, James Striar School, unless I approve his admission to James Striar School.

If I approve his admission to James Striar School, he still does not enter, he still is not admitted until the admissions office, or the Committee of the Admissions [2947] office, or the Director of Admissions of the College, approves his admission to the College.

And, may I say, that it has happened, and does happen quite frequently, that I will want a student, who is very desirable on my terms, and the Dean of the College would be called in on an application and would say, I don't think he qualifies for the College.

So, we, when I say we, I mean the faculty and myself, determine the standard for admission to James Striar School, and the College admissions office, and the Dean, determine the standards, and faculty there, I think, too, determine the standards for admission to the College.

Because the student enters two schools, literally.

* * * *

[2950] Q Do you know who established the tenure policy, or had financial approval of the tenure policy, at Yeshiva University?

A I—

Q Pardon me?

A It is, to the best of my knowledge, it was done by the faculty of the Yeshiva College, perhaps, together with Stern College.

I know they had been working on it for a number of years, and it was finally approved, I think, by the Board of Directors or Trustees of Yeshiva University.

Q It was approved, was it not, for the entire University, excepting Einstein?

A Well, I never went into the—went into this issue, and the issue was never raised to me.

I cannot give a definite answer to your question.

I can only say, it was not operative in James Striar School. Has not bee, up to this point.

Q Does the faculty—

Do you or the faculty at the James Striar School, [2951] have charged to you, under any University document, the authority to establish your own tenure policy?

* * * *

THE WITNESS: Whether I've been directed to do so?

Q Yes.

A No.

Q Or anyone has granted you the authority to do so?

A You mean to follow the—to adopt or—

Q To adopt, reject, or set your own tenure policy.

A Specifically stated, or in writing, no.

* * * *

[2956] Q Do the departments of the James Striar School have formal meetings?

A No.

Q How were the departmental chairmen chosen?

A On the basis, they were chosen at a meeting, first of all, on the basis of seniority.

I made the recommendations and asked for approval.

Q Were they chosen with the concensus of the faculty?

A Oh, yes.

I think it was unanimous.

Q Was there a vote or was a concensus sufficient?

A You know, when one presides, one asks for a vote, and sometimes if there are any objections.

If there are no objections, it passed.

There was no discussion about it.

These are the two old time members of the department.

Q At the faculty meetings, who sets the agenda?

A I do.

Q Okay.

[2957] A But there's always a good and welfare item, and I ask for—and I always ask for good and welfare.

Under this item, a member may bring up any matter of interest concerned to him.

Q Who presides at the meetings?

A I do.

Q When was the last time you hired a full time faculty member?

A I don't—Well,—

Q Was Rabbi Blech the last one?

A Yes.

He had been teaching six hours, eight hours, ten hours, and he proved himself to be exceptional, an exceptional teacher, and three or four years ago, asked him whether he would take two additional courses to fill out the requisite number of hours, and he said, yes, he could do it, and he undertook the additional hours, and was given the status of full time.

Q So, in the last three years, with the exception of Rabbi Blech, you have hired no one, no full time faculty?

A No one.

* * * *

[2959] Q Then it is true, that it is not only the chairman who plays some consultative role, it is other members of your faculty, as well?

A Yes.

Except the chairman, I wouldn't hire anyone in their department, without consulting with.

Q And can any member or has any member of your [2960] faculty ever suggested a certain person for hiring?

A Certainly.

Q Has it been other than the chairman who has made such a suggestion?

A Sure.

I'm looking for suggestions right now.

Q Can you look for such suggestions from the entire faculty?

A Qualified instructors are very hard to get.

When you get them and train them, someone picks them up after you.

Q Do department chairmen at James Striar School receive any compensation for serving as chairman?

A No.

Q Now, you indicated that a department chairman might spend a half hour with your discussing potentially hiring a faculty member.

Is it possible he might spend a half hour with another faculty member—

MR. BODNER: Can you specify—

My question is, can you clarify if we're talking about departments with chairmen or those without chairmen?

Q I am talking about departments with chairmen.

A Your question is whether I would spend the amount [2961] of time with a non-chairman—

Q Or part time faculty member—

A I could and I might, but, ordinarily, I wouldn't spend that much time with a part time member discussing it, as I would with a full time member—with the chairman, rather.

Because from the chairman, I am, in a way, seeking a confirmation, or a concensus, and agreement on this appointment.

Q And you indicated that the chairman need not necessarily consult with other faculty in the department.

Similarly, may he likewise consult with other faculty members?

A Sure.

Q On occasions, do you know whether a chairman has consulted with faculty members?

A I don't know of a specific instance, but I imagine one time or another there was a chairman who consulted the members of his department.

* * * *

REDIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Besdin, who sets what—

What body sets the admissions criteria of your school, that you referred to?

[2962] A Basically, the general criteria is set by the faculty.

* * * *

[2966] RABBI BARUCH FAIVELSON

called as a witness, first being duly sworn, was examined, and testified as follows:

DIRECT EXAMINATION

BY MR. BODNER:

Q Rabbi Faivelson, will you tell us your correct position at Yeshiva University?

A I'm a director of the Teachers Institute for Women of Yeshiva University.

Q Would you describe for us what the Teachers Institute for Women is?

A The Teachers Institute for Women has a double purpose.

Number 1, as its name implies it produces teachers for the various day schools and afternoon schools in New York [2967] and other parts of the country.

Number 2, it has many students who have graduated from Yeshiva High School who now attend a college, whether it be NYU or City College or Hunter, and they come to our school for continuation of their Judaic studies.

Q What degrees are offered by the Teachers Institute for Women?

A We offer two degrees, Hebrew Teachers Diploma and a college degree, a B.S.

Q B.S., Bachelor of Science?

A In Education; right.

Q You offer any other Bachelor degrees other than Bachelor of Science Education?

A No.

Q Will you state the answer so that the—

A We offer a Bachelor of Science in Education, but what it really boils down to is a regular bachelor because many of our young ladies who get that B.S. have been accepted for a M.A. in English Literature at NYU or for a M.A. in Physiology. Because we have—16 credits of electives.

In other words, if someone wants to be a teacher—is someone goes for a M.A. in History, they can have as many as 12 credits under Social Sciences plus 16 credits in electives.

Q How many class room hours are required to retain a [2968] Bachelor of Science degree in education in T.I.W.?

A You have to get your Hebrew Teachers diploma, which involves 106 credits, plus 58 credits in regular college.

Q By regular college, does that include another college of Yeshiva University?

A No.

It means any acredited college, whether it be Hunter or Brooklyn or Barnard.

Q Can it also include Yeshiva College or Stern College for Women?

A Well, Yeshiva College is for men.

Q Stern College for Women?

A But the two schools have a completely different student body. Those girls are Stern College get their Hebraic studies and their general studies in Stern College. They get it in one building at the same school. We offer Hebraic studies only.

Q Rabbi Faivelson, when did you become director of the Teachers Institute for Women?

A From the very beginning of September '52.

Q When you say the very beginning, what do you mean by that?

Is that the time—

A That's when the school was instituted.

* * * *

[2973] Q Do you currently engage in any teaching at your school or any other school of Yeshiva University?

A Right. In our school I teach two courses.

Q What courses would those be?

A One is Medieval Hebrew Literature and one is Modern Hebrew Literature.

Q For how many years have you taught at the Teachers Institute for Women?

A From its very inception, '52.

Q Have any other faculty members at your school taught the same courses that were taught by you in years in which you were not teaching them?

A Right.

Q For example, the two courses that you are currently teaching, were they previously taught by other faculty members at T.I.W.?

A Right.

* * * *

[2975] Q Rabbi Faivelson, in preparation for this hearing did you at my request have prepared under your direction a listing of the faculty of the Teachers Institute for Women for the fall academic year 1974-'75?

A Right.

* * * *

[2976] THE HEARING OFFICER: On the record.

(The above referred document was marked Employer's Exhibit No. 123 for identification, as of this date.)

BY MR. BODNER:

Q Rabbi Faivelson, would you tell us what the first column represents, the column that starts with the word bible and goes on to education, Hebrew, so on?

A These are the major areas of study.

Q Do you consider them as departments as such? Do you have official departments within your school?

A No.

Q Are the faculty of—that I notice are grouped within major areas of study considered as members of specific subject area to departmental chairmen or senior professors within that subject area or area of study?

A No.

Q I notice the next column is designated full time faculty.

Is it correct that these are individuals who hold full time faculty status at the T.I.W.?

A Right.

Q Now, I notice that there is no designation of rank [2977] next to each individuals name but at the top of

this exhibit you have the sentence all faculty carry instructors rank.

Could you explain?

A We do not have any ranks in our school. Every one is considered an instructor.

Q Is that true of part time faculty as well as full time faculty?

A We have no distinction at all between full time and part time faculty.

Q So that every individual employed at your school, whether full time or part time, has the same title, namely that of instructor?

A Right.

* * * *

[2998] Q I show you this for identification, and ask it be marked for identification as Employer's Exhibit 125.

Is that the list you so prepared?

(Handing)

[2999] A Right.

(The above referred document was marked Employer's Exhibit No. 125 for identification, as of this date.)

BY MR. BODNER:

Q Rabbi Faivelson, are the committees listed here standing committees or adhoc committees or both, if you so distinguish them?

A I don't understand your question.

Q Have these committees continued in existence for a number of years at the school?

A Right.

Q How on this exhibit did you designate the individuals that are regarded as being part time faculty at T.I.W.?

A Well, you see asterisk mark.

Q I see.

Now, in your previous testimony you dealt with the Admissions Committee.

Rabbi Faivelson, will you tell us about the Academic Standing Committee, what is their function?

A The Committee in Academic Standing reviews at the end of every semester the grades of the—all the students, decides whether any student is to be dropped from the school, decides whether any student should be put on probation, and deals with any letter which may be written by any student [3000] to the Committee on Academic Standing.

Q And does its jurisdiction include students of both full time and part time faculty?

A Right.

Q Is there any distinction made between matters brought to it from students of both full time and part time faculty members?

A No.

Q The next committee is entitled Curriculum Committee.

Will you tell us what the function of that committee?

A The function of the Curriculum Committee is to decide which courses which have become obsolete should be dropped, which possibly new courses should be organized, and as to whether the contents of various courses should be changed.

Q And does it—are the subject matters of both courses taught by both full time and part time faculty?

A Right.

• • • •

[3002] Q Now, with regard to the next committee whose title is Education, would you tell us the functions of the Committee on Education?

A As you might recall all these three people are engaged in student teaching provision. And the contents of all courses in education is under their aegis. Accordingly, they are the prime arbitrators for any decisions which have to be made.

• • • •

[3003] Q The last committee on this exhibit for identification 125 is entitled Student Faculty Committee.

Are there additional student members of this committee?

A I have listed only the faculty.

Q Yes. I understand.

Are there though additional student members even though I asked you not to list them on this exhibit?

A Of course.

Q What is the jurisdiction or the work of this committee entitled Student Faculty?

A In line with developments in the field of education of late students are given more and more of a share in the administration of the school, and accordingly, we have this Student Faculty Committee. They were instrumental in, for instance, introducing a new course to the school this year, which we have never had before. It was at the demand of the students.

[3004] Q And this demand was enforced by the full committee?

A Right.

Q Were there any additional committees within the last two academic years other than those listed on this exhibit?

A No.

• • • •

Q Turning to the subject of part time faculty in terms of their governing functions, Rabbi Faivelson, do faculty members at T.I.W. meet as a body to discuss matters of interest to the faculty?

A Right.

Q In what form or format do they hold such meetings?

Are these meetings of the faculty as a whole?

A Right.

[3005] Q Are there written by-laws governing the conduct of such meetings?

A No.

Q What types of matters are within the ambit of these faculty meetings at T.I.W.?

A They have a wide range. For instance, a few years ago we were involved in the question of moving the school, namely, I suppose as you gentlemen know, when

it comes to higher education, especially for women, the question of attrition comes in, especially in our school where the girls go to two colleges, Brooklyn College and T.I., Barnard and T.I., Hunter and T.I., it's a very heavy double load and accordingly as soon as the young lady found some difficulty she drops out from our school.

Therefore, we have to be constantly on the alert and be engaged in a constant student recruitment drive. For instance, I go personally to visit every single Yeshiva school in New York and New Jersey to speak to the graduating class.

Now, we had a serious crisis in our school about three years ago, four years ago, and the question arose that maybe it would be better for our school to move to Brooklyn where there is the heavy concentration of the Jewish population.

Q I'm going to go into some details as to that, but could you tell us for now what other subject matters would be taken up at faculty meetings, in addition to this example?

[3006] A In connection with that crisis in the school lower number of students, the question of budgeting came in. We were asked to cut down on the number of courses and the teachers.

Accordingly the question arose who should be dropped. So even though I mentioned a certain—name of a teacher whose program should be cut, the faculty did not necessarily follow, and we had a faculty meeting, and the committee—a committee was appointed, and they went to Dr. Belkin, and rejected the dropping of this teacher.

Q We'll get into some detail as to that as well.

But in addition to these two examples, could you just briefly tell us the type of subject areas other than these two that are dealt with at faculty meetings?

Just to state the broad nature of the subject area.

A The beginning of every faculty meeting I give a report on the number of students in the school, sources of admission from which schools they come, how many students have left from the last juncture to this juncture, and accordingly all the faculties vitally involved in this

business of guarding the number of students in the school.

It goes to that extent, that all our facilities involved in student recruitment. For instance, we have had alumna parlor meetings about four years ago, we were in touch with every single alumna who graduated since 1952, and we [3007] organized parlor meetings in the various boroughs of the City of New York.

In every borough a different member of the faculty was present to tell our almuna about our plight and to engage their support.

Q Are there particular subjects of particular interest to the faculty that comes up at these meetings that were perhaps initiated by the faculty or are of particular concern to them as faculty members?

A No.

Q Do these meetings deal with questions of faculty status, faculty conditions?

A Naturally these are among the things which come up. But as I said before, it's not only matters of faculty perse; in T.I., the faculty is the school.

* * * *

[3008] Q Now, you mentioned before, Rabbi Faivelson, that there was an important matter at your school concerning the possible moving of the institute to Brooklyn, is that correct?

A Right.

Q And would you tell us what the issues involved within this discussion on where the institute should be housed?

A All right.

Originally our school was established in Brooklyn on Bedford Avenue and Snyder Avenue. We were an outgrowth, as I explained before, of Yeshiva University High School for [3009] Girls in Brooklyn who wanted to continue their education for higher studies.

But when Stern College opened up here in Manhattan, the administration felt that there would be great benefits for the two schools to be in one building, the question of a cafeteria, so accordingly we moved from Brook-

lyn to Manhattan and in September '54, two years after the school's existence.

But then as the years went on, and the demography of the City of New York as Manhattan became empty of Jews, I considered it highly visible for our school to move to Brooklyn. Brooklyn as you know is heavily centered now, into Borough Park, Flatbush, very many Jews, and our students come from these parts of the population.

I went to Dr. Belkin, and he said well, if you think so, but then the subject came up at the next faculty meeting, and the faculty rejected it completely, and in Manhattan we stayed.

* * * *

[3010] Q Rabbi Faivelson, were there minutes made of the meeting in which the possible move to Brooklyn was discussed?

A Right.

* * * *

Q I show you for identification this document and would ask you if this is a fair translation of the minutes of that [3011] meeting, and for that purpose I will also give you a copy of the original minutes in Hebrew and ask you to spend a moment and compare them to tell whether its a fair translation particularly with regard to the discussion of the move to Brooklyn?

A Right. It's the same.

* * * *

BY MR. BODNER:

Q Rabbi Faivelson, going through these minutes, who was the decision making body with regard to whether or not this school would move to Brooklyn?

A The faculty.

Q And did its decision run counter to your own recommendations and opinion?

A Right.

Q And did the decision of the faculty on this important matter become the ultimate decision of the school and of the University?

A Right.

Q That is reflected in these minutes which you have before you for identification as 126?

[3012] A Right.

MR. BODNER: I would move this into evidence as Employer's Exhibit 126.

MR. SHECTMAN: No objection.

THE HEARING OFFICER: Received.

* * * *

BY MR. BODNER:

Q Rabbi Faivelson, would you describe the role of your faculty with respect to decisions on curriculum, degree requirements, admission requirements and the like? Who is the decision making body on this matter?

A The faculty.

Q When you say the faculty, does that include on an equal basis the full time and part time faculty?

A Right.

Q Would you give us an example of a decision on an academic matter so that we might briefly trace its history taken up by the faculty in recent years?

A The question was whether we should continue courses Hebrew language program, speech and composition, and another course in Hebrew grammar.

Q Does this affect the work of both full time and part time faculty members?

[3013] A Right.

Q Did both full time and part time faculty members participate in this discussion?

A Right.

Q What were the results of the discussions and decisions by the faculty on this issue?

A The faculty seems to think that the young ladies of late are interested in content, and current Jewish problems, and that language was secondary, and the faculty decidead to eliminate these two courses.

Q Are there ever meetings of what you previously described as the subject or subject groupings as indicated on Employer's Exhibit 123, for example, do the faculty members who teach courses in the, in bible ever meet as a group to deal with instructions related to bible?

A In this area it's primarily the Education Committee, which is very active, having met as recently as last Thursday. Are interested in the subject of what they discussed?

Q Yes.

Would you briefly tell us that subject?

A We are of late branching out into the Homes for the Aged, but I'm not—you see, these Rabbis begin with the aging and they make a profit. We teachers start with the young. But the question was there are very many elderly in the Homes for the Aged, I visited two weeks ago two such nursing homes [3014] in Long Beach.

I have learned of late a lot about the aged, they go into three categories, those who are very well physically and mentally, these are senior citizens homes, next is what they call a health related facility, some are sick, some are well. The lowest category is a nursing home.

But in that senior citizens, where a former graduate of ours is a recreational director, I found she was conducting a class of spritely elderly young ladies in current Jewish problems, and I brought this back to the Education Committee.

The question was should the 150 hours of student teaching be done only for the young. At first I made a slip I called it early childhood and second childhood. But we decided to call it early education and later education. Or since we have so many of the elderly, if a person retires according to Beam's instruction at 63 and if you are happy or otherwise to live to 90, or 27 years in which to exist, and to do something, so the question was shall we recognize this as student teaching.

For instance, the committee met and decided that from now on any young lady who wants a certain area, they can do 75 hours of student teaching with the young and 75 hours of student teaching with the old. And we found some elderly Jews in Manhattan, here, on 14th Street and First [3015] Avenue, there is a Brookdale Institution for the Aged, that's where I was yesterday, and we have now arranging that the girls can do student teaching there.

Now, this whole matter of whether to recognize student teaching for the elderly are not—that is completely within the competent of the Education Committee.

Q Is their decision binding?

A Their decision is binding.

* * * *

[3031] Q So if an individual teaches a single two hour course in both the fall and spring semester of the academic year then for salary purposes is it correct that you would calculate on the basis of 16 sessions per hour times the factor of two to represent the fact that it's a two hour rather than one hour course, and then if this was true of both the fall and spring semesters times the factor of two to represent each of the semesters, so that the total would be 16 times two or 64 hours for salary calculation purposes?

A Right. Right.

Q And if he taught a full time load, which would be equivalent to six two hour courses or twelve hours, it would be 12 times—

A Seventeen point seventy-five per semester times two.

[3032] Q Let me take a step back. 12 representing the number of hours times 16 representing the number of sessions for each hour per semester times two to represent the fact that it's both for the spring and fall academic semester; is that correct?

A Right.

Q Now, you mention that the amount paid per hour is $17.75?

A Right.

Q Is that applicable to both full time and part time faculty?

A Right.

Q So that a part time faculty member who taught three two hour courses in both the fall and spring academic semester would receive exactly half of the full time faculty member who taught twice as many hours in both the fall and spring academic semester?

A Right.

* * * *

[3033] MR. BODNER: In our off the record discussion we discussed a stipulation to the effect that this formula, salary formula applies identically to both full time and part time faculty members, or to put it another way, that there is a pricise pro-rata relationship between the salary of full time and part time faculty members in this school, and a—according to the—that is according to the number of courses taught.

Are we now prepared to stipulate to that?

MR. SHECTMAN: I will stipulate that is uniform for the entire faculty employed at Teachers Institute for Women. I will not stipulate that there's any distinction between part time and full time at T.I.W., but I will stipulate in terms of salary.

MR. BODNER: In terms of salary?

[3034] MR. SHECTMAN: Yes.

THE HEARING OFFICER: So stipulated?

MR. BODNER: So agreed.

* * * *

[3038] Q Rabbi Faivelson, if you would use the perhaps over simplified definition that an upperout policy generally means that after a given number of years generally seven years, a faculty member is formally evaluated, and he is either given tenure or else his dismissal is required by the University, that is an individual cannot remain a member of the faculty unless he is given tenure after he reaches a certain number of years of service, is termed upperout.

[3039] Using that definition, is there a formal or informal upperout policy at your school that you're aware of?

A No.

Q All right.

Turning to the managerial and supervisory authority of the faculty, Rabbi Faivelson, you were describing before an instance in which an individual was scheduled to be terminated at T.I.W.

Can you at this time give us a bit more background about that situation, that is, approximately when did this occur, what was the reason for its possible occurrence and so forth?

A For the extention or for a typical one year probationary period and its termination?

Q No.

The instance I'm referring to is the one that you made brief reference to in your previous testimony, namely, an instance in which a faculty member was originally scheduled—one or more faculty members were originally scheduled to be terminated, and you indicated before that their termination did not come about, and as I said then I would go into it in a bit more detail at the appropriate moment.

Would you tell us first approximately what academic year this situation took place, if you recall?

A Yes.

[3040] This took place in '65, '65-'66. That was one case. Then we had another case in '70.

Q I see.

Let us take the more recent instance, the 1970 academic year.

Would you give us the background of how the threat ended or the possible termination came to occur, that is what were the circumstances that caused the situation to arise?

A We have a constant problem of, as I mentioned before, the attrition of students, especially since we have so many part time young ladies who don't come because they want to become Hebrew teachers. The field is rather not too remunerative, and accordingly as soon as they have the slightest difficult in carrying both programs or as soon as they develop a greater interest, namely they meet a young man, they drop out from our school.

So we have the constant problem of student recruitment and of student retention. We hit a crisis in 1970, where the number of young ladies was going down, and with the financial situation of the University as a whole, there were meetings of all the schools, the committees of all the schools, and it was decided that any class below a certain number of students, to be exact ten, should be eliminated, should be dropped.

Accordingly, we had a number of classes which were [3041] in that category, and there arose a question that

we had to eliminate a few courses, and in that case it meant a few teachers.

I, having the—possibly the more experience or having seen the school from the very beginning and thinkin of its future felt that if the boat is sinking, if the welfare of 19 teachers is involved, then we will dump one and keep the boat afloat.

If we have a teacher who is possibly not so efficient, he makes a hole in that boat and water comes in then we will all sink, so I recommended, and I was going to move that we eliminate one or two teachers. The faculty was made aware of it, since I don't move without the faculty.

Everything in T.I., whether it's student recruitment or visiting the bereaved, everything goes through the faculty. We took it up at a meeting and the faculty voted the other way, rather the whole boat should sink, but not someone who has been there for years even on a part time basis should be asked to leave.

I was out—I was out voted, and the committee—the faculty voted that the committee should go to Dr. Belkin, the person who is in charge of budgeting, and object and prevent any elimination of any teacher whatsoever from our school.

Q And was that the faculty's decision that the teacher should be retained adopted as the policy of Yeshiva University?

[3042] A Right.

As much as possible Dr. Belkin will not over ride the opinion of the whole school—of a whole faculty.

* * * *

THE WITNESS: May I make a statement, sir?

It so happens, gentlemen, I have been with Yeshiva [3043] University since 1929 as a student. When I graduated Yeshiva College and after I got my M.A. in Teachers College I was appointed to the public school system.

I taught in Lincoln High. And Dr. Belkin heard of my work, he pulled me out of there. When he opened T.I. he put me in there. I have been in touch with Dr. Belkin accordingly since 1945. I know the man personally well, and when many a time the question of a faculty opinion, he has expressed it, and I have him in action since 1945, he will not offend a whole faculty. This is in my experience.

* * * *

Q Rabbi Faivelson, was there, to your knowledge, minutes made of the faculty meeting to which you referred in 1970 in which the right or privilege of the institution to terminate the services of a particular faculty member?

A Yes.

Q I show you this for identification.

Do you recognize this to be minutes of such meeting?

(Handing)

A Right.

MR. BODNER: I ask this be marked for identification as Employer's Exhibit 127.

* * * *

[3044] BY MR. BODNER:

Q Rabbi Faivelson, I notice that in paragraph B of this document marked for identification as Employer's Exhibit 127, the faculty expresses an opinion with regard to the relationship between faculty and the administration previous to that time, that is, with respect to the right of the faculty to make determinations on the matters with which they're concerned.

Has this relationship changed, that is, in the sense does the faculty in this case to which you have referred, and in subsequent cases, act as the decision making body since 1970 on these matters?

A Right.

Q So that I assume that the basis for their concern which was expressed in this document as to what happened in previous academic years is no longer currently valid?

A Well, they have won their case.

They meaning the faculty?

A They have won their case, and those teachers were not dismissed.

* * * *

[3045] A No, I can't think off-hand.

Q Okay.

With regard to the example that you previously discussed with us when you indicated that the faculty reached a decision.

Was this a decision reached by vote or by consensus, if you know?

How was the decision arrived at?

A By a vote of all the members present.

* * * *

Q Rabbi Faivelson, would you describe for us your role as Dean, Director of T.I.W., in respect to the faculty?

[3046] A I consider myself as the executive arm of the faculty. I carry out their decisions.

* * * *

CROSS EXAMINATION

[3056] Q Who hires the faculty at the Teachers Institute for Women?

A The faculty.

* * * *

[3057] Q Rabbi, when you interview a prospective faculty member or a candidate for a position at the Teachers Institute for Women, do you conduct the interview with that person?

A Well, as I explained to you, we really have—I try to have one or two people present of the faculty.

Q Is that a matter of policy, that there's always somebody else present?

[3058] A You must have heard before, we have no by-laws and we have no definite status. As you have heard, this school is conducted like a sort of family. Because no other school makes it compulsive.

When one of our teachers who teaches for us, before a girl registers for the course, has to check out whether the teacher has room for her in his car to take her home at night. So accordingly, we don't—we have no definite by-laws, and I will not—I never engaged any teacher to which there was the slightest objection, even on one faculty member's part.

Q Do you provide the final notice of hiring or rejecting a faculty member—prospective?

A Final notice—I have to send a payroll memorandum to the office, to—we call him Mr. Ellenberger or the Office of Finances.

Q Who provides final notice to the person to be hired?

A I. I do the secretarial work.

Q And does this person receive a letter of appointment?

A No.

Q Does this person receive any written confirmation of his or her hiring from you or anyone else at the University?

A No.

* * * *

[3064] Q Are any members of your faculty entitled to take part in the University pension program?

A Again I tell yon I don't know.

Q Are any members of your faculty entitled to take part in the life insurance program offered by the University?

A All such matters—you see as I might have explained to you gentlemen, I cover such a wide variety of fronts in my work, as for instance, we are in touch with every single girl who graduated, and accordingly, if a job opens up like a school called me up, Prospect Park, they needed a teacher unexpectedly, I go over the list of graduates and have to—and come up with a name of a young lady.

I go down to the school to fight for a raise. So I—certain things I just tell them if you're interested, go to the office of Student Finances of the Bursar and find out.

* * * *

[3065] MR. BODNER: We will be happy to provide you with this data. As Rabbi Faivelson has indicated he is not familiar with these particular details, but we will seek to locate such details either in the form of perhaps a stipulation, perhaps written material or if absolutely necessary by another individual.

* * * *

Q Rabbi, in your prior testimony, in accordance with your handwritten notes to which you alluded you said that tenure meant job security.

Could you tell us more accurately what you mean by job security or more specifically?

A You mean there's—you mean those two words I wrote down?

Q The words which you stated in response to a question from counsel for the University.

[3066] A Thus far in the 23 year history of the school no teacher after his probationary has been finished has ever been fired so everyone knows that he has job security in our school.

Q Who established this probationary period of one year for your faculty?

A Faculty.

* * * *

[3069] THE HEARING OFFICER: All counsel is seeking is whether or not you have a formalized policy as to the termination or rights of a faculty member. Whether it has occurred or not is not the question.

THE WITNESS: This is what I'm trying to answer you. But what you term formal, in T.I. we have an unique relationship. I don't think you have any other school where you were, a teacher goes student recruiting with me. You don't have any other school—every teacher is present at any joyous occasion of the other person's family.

This is a none—sort of unwritten constitution, unwritten understanding that at T.I. no faculty member is fired.

* * * *

[3070] THE HEARING OFFICER: Can you state yes or no whether there is a formalized written policy concerning the rights—

THE WITNESS: We have nothing written. I made that statement in the beginning of the session that we have no written by-laws and any legal technicalities.

* * * *

[3074] Q Do members of what you designate as your full time faculty need express consent and approval to have employment outside the University?

A No.

* * * *